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Mr. Webster's vindication of the treaty of Washington of 1842.

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MR. WEBSTER'S VINDICATION

OF THE

TREATY OF WASHINGTON OF 1842;

IN A SPEECH

DELIVERED IN THE SENATE OF THE UNITED STATES,

On the 6th and 7th of April, 1846.

WASHINGTON:
PRINTED BY J. & G. S. GIDEON.
1846.

488486

THE TREATY OF WASHINGTON.

Mr. WEBSTER rose and said: It is altogether unexpected to me, Mr. President, to find it to be my duty, here, and at this time, to defend the treaty of Washington of 1842, and the correspondence accompanying the negotiation of that treaty. It is a past transaction. Four years have almost elapsed since the treaty received the sanction of the Senate, and became the law of the land. While before the Senate, it was discussed with much earnestness and very great ability. For its ratification, it received the votes of five-sixths of the whole Senate—a greater majority, I believe I may say, than was ever before found for any disputed treaty. From that day to this—although I had had a hand in the negotiation of the treaty, and felt it to be a transaction with which my own reputation was intimately connected, I have been willing to leave it to the judgment of the nation. There were, it is true, sir, some things of which I have not complained, and do not complain, but which, nevertheless, were subjects of regret. The papers accompanying the treaty were voluminous. Their publication was long delayed, waiting for the exchange of ratifications; and, when finally published, they were not distributed to any great extent, or in large numbers. The treaty, meantime, got before the public surreptitiously, and, with the documents, came out by piece-meal. We know that it is unhappily true, that away from the large commercial cities of the Atlantic coast, there are few of the public prints of the country which publish official papers on such an occasion at large. I might have felt a natural desire, that the treaty and the correspondence could have been known and read by every one of my fellow-citizens, from East to West, and from North to South. But it was impossible. Nevertheless, in returning to the Senate again, nothing was farther from my purpose than to renew the discussion of any of the topics discussed and settled at that time; and

nothing farther from my expectation than to be called upon by any sense of duty to my own reputation, and to truth, to make, now, any observations upon the treaty, or the correspondence.

But it has so happened that, in the debate on the Oregon question, the treaty, and, I believe, every article of it, and the correspondence accompanying the negotiation of that treaty, and, I believe, every part of it, have been the subject of disparaging, disapproving, sometimes contumelious remarks, in one or the other of the Houses of Congress. Now, with all my indisposition to revive past transactions and make them the subjects of debate here, and satisfied, and indeed highly gratified with the approbation so very generally expressed by the country, at the time and ever since, I suppose that it could hardly have been expected, nevertheless, by any body, that I should sit here from day to day, through the debate, and through the session, hearing statements, entirely erroneous as to matters of fact, and deductions from these supposed facts quite as erroneous, all tending to produce unfavorable impressions respecting the treaty, and the correspondence, and every body who had a hand in it—I say, it could hardly have been expected by any body that I should sit here and hear all this, and keep my peace. The country knows that I am here. It knows what I have heard, again and again, from day to day; and if statements of fact, wholly incorrect, are made here, in my hearing, and in my presence, without reply or answer from me, why, shall we not hear in all the contests of party and elections hereafter, that this is a fact, and that is a fact, because it has been stated where and when an answer could be given, and no answer was given? It is my purpose, therefore, to give an answer here, and now, to whatever has been alleged against the treaty, or the correspondence.

Mr. President, in the negotiation of 1842, and in the correspondence, I acted as Secretary of State under the direction, of course, of the President of the United States. But, sir, in matters of high importance, I shrink not from the responsibility of any thing I have ever done under any man's direction. Wherever my name stands I am ready to answer it, and to defend that with which it is connected. I am here to-day to take upon myself—without disrespect to the Chief Magistrate under whose direction I acted—and for the purposes of this discussion, the whole responsibility of every thing that has my name connected with it, in the negotiation and correspondence. Sir, the treaty

of Washington was not entered into to settle any—or altogether for the purpose of settling any—new, arising questions. The matters embraced in that treaty, and in the correspondence accompanying it, had been interesting subjects in our foreign relations for fifty years—unsettled for fifty years—agitating and annoying the councils of the country, and threatning to disturb its peace for fifty years. And my first duty, then, in entering upon such remarks as I think the occasion calls for in regard to one and all of these topics, will be, to treat the subjects in the first place, historically—to show when each arose—what has been its progress in the diplomatic history of the country; and especially to show in what posture each of those important subjects stood at the time when William Henry Harrison acceded to the office of President of the United States. This is my purpose. I do not intend to enter upon any crimination of gentlemen who have filled important situations in the executive government in the earlier, or in the more recent, history of the country. But I intend to show, in the progress of this discussion, the actual position in which things were left in regard to the topics embraced by the treaty, and the correspondence attending the negotiation of it, when the executive government devolved upon General Harrison, and his immediate successor, Mr. Tyler.

Now, sir, the first of these topics is the question of the Northeastern Boundary of the United States. The general history of that question, from the peace of 1783 to this time, is known to all public men, of course, and pretty well understood by the great mass of well informed persons throughout the country. I shall state it briefly.

In the Treaty of Peace of September, 1783, the northern and eastern, or, perhaps, more properly speaking, the northeastern boundary of the United States, is thus described, viz:

"From the northwest angle of Nova Scotia, viz., that angle which is formed by a line drawn due north from the source of the St. Croix river to the highlands; along the said highlands, which divide those rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic ocean, to the northwesternmost head of Connecticut river; thence, along the middle of that river to the forty-fifth degree of north latitude; from thence, by a line due west on said latitude, until it strikes the river Iroquois or Cataraquy. East, by a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy, to its source, and from its source directly north to the aforesaid highlands."

Such is the description of the northeastern boundary of the United States, according to the Treaty of Peace of 1783. And it is quite

remarkable that so many embarrassing questions should have arisen from these few lines, and have been matters of controversy for more than half a century.

The first disputed question was, "Which, of the several rivers running into the Bay of Fundy, is the St. Croix, mentioned in the treaty." It is singular that this should be matter of dispute, but so it was. England insisted that the true St. Croix was one river; the United States insisted it was another.

The second controverted question was, "Where is the northwest angle of Nova Scotia to be found?"

The third, "What and where are the highlands, along which the line is to run, from the northwest angle of Nova Scotia to the northwesternmost head of Connecticut river?"

The fourth, "Of the several streams which, flowing together, make up Connecticut river, which is that stream, which ought to be regarded as its northwesternmost head?"

The fifth was, "Are the rivers which discharge their waters into the Bay of Fundy, rivers 'which fall into the Atlantic ocean,' in the sense of the terms used in the treaty?"

The 5th article of the treaty between the United States and Great Britain, of the 19th of November, 1794, after reciting, that "doubts had arisen what river was truly intended under the name of the river St. Croix," proceeded to provide for the decision of that question, by three commissioners, one to be appointed by each Government, and these two to choose a third; or, if they could not agree, then each to make his nomination, and decide the choice by lot. The two commissioners agreed on a third; the three executed the duty assigned them, decided what river was the true St. Croix, traced it to its source, and there established a monument. So much, then, on the eastern line was settled; and all the other questions remained wholly unsettled down to the year 1842.

But the two Governments continued to pursue the important and necessary purpose of adjusting boundary difficulties; and a convention was negotiated in London by Mr. Rufus King and Lord Hawkesbury, and signed on the 12th day of May, 1803, by the 2nd and 3d articles of which it was agreed, that a commission should be appointed, in the same manner as that provided for under the treaty of 1794, to wit: *one* commissioner to be appointed by England, and one by the United

States, and these two to make choice of a third; or, if they could not agree, each to name the person he proposed, and the choice to be decided by lot; this third commissioner, whether appointed by choice or by lot, would, of course, be umpire or ultimate arbiter.

Governments, at that day, in disputes concerning territorial boundaries, did not set out each with the declaration that the whole of its own claim was clear and indisputable; whatever was seriously disputed they regarded, as in some degree, at least, doubtful or disputable; and, when they could not agree, they saw no indignity or impropriety in referring the dispute to arbitration, even though the arbitrator were to be appointed by chance, between respectable persons, named, severally, by the parties.

The commission thus constituted was authorized to ascertain and determine the northwest angle of Nova Scotia; to run and mark the line from the monument, at the source of St. Croix, to that northwest angle of Nova Scotia; and also to determine the northwesternmost head of Connecticut river; and then to run and mark the boundary line between the northwest angle of Nova Scotia and the said northwesternmost head of Connecticut river; and the decision and proceedings of the said commissioners, or a majority of them, was to be final and conclusive.

No objection was made by either Government to this agreement and stipulation; but an incident arose to prevent the final ratification of this treaty, and it arose in this way. Its fifth article contained an agreement between the parties settling the line of boundary between them beyond the Lake of the Woods. In coming to this agreement they proceeded, exclusively, on the grounds of their respective rights under the treaty of 1783; but it so happened that, twelve days before the convention was signed in London, France, by a treaty signed in Paris, had ceded Louisiana to the United States. This cession was at once regarded as giving to the United States new rights, or new limits, in this part of the continent. The Senate, therefore, struck this 5th article out of the convention; and as England did not incline to agree to this alteration, the whole convention fell.

Here, sir, the whole matter rested till it was revived by the Treaty of Ghent, in the year 1814. And by the 5th article of that treaty it was provided, that each party should appoint a commissioner, and those two should have power to ascertain and determine the boundary

line, from the source of the St. Croix to the St. Lawrence river, according to the treaty of 1783; and if these commissioners could not agree, they were to state their grounds of difference, and the subject was to be referred to the arbitration of some friendly Sovereign or State, to be afterwards agreed upon by the two Governments. The two commissioners examined the boundary, explored the country, but could not agree.

In the year 1823, under the administration of Mr. Monroe, negotiations were commenced with a view of agreeing on an arbitration, and these negotiations terminated in a convention, which was signed in London, on the 29th September, 1827, in the administration of Mr. Adams. By this time, collisions had already begun on the borders, notwithstanding it had been understood that neither party should exercise exclusive possession pending the negotiation. Mr. Adams, in his message of December 8, 1827, after stating the conclusion of the convention for arbitration, adds:

"While these conventions have been pending, incidents have occurred of conflicting pretensions, and of a dangerous character, upon the territory itself in dispute between the two nations. By a common understanding between the Governments, it was agreed that no exercise of exclusive jurisdiction by either party, while the negotiation was pending, should change the state of the question of right to be definitely settled. Such collision has, nevertheless, recently taken place, by occurrences the precise character of which has not yet been ascertained."

The King of the Netherlands was appointed arbitrator, and he made his award on the 10th of January, 1831. This award was satisfactory to neither party; it was rejected by both, and so the whole matter was thrown back upon its original condition.

This happened in the first term of Gen. Jackson's administration. He immediately addressed himself, of course, to new efforts for the adjustment of the controversy. His energy and diligence have both been much commended by his friends; and they have not been disparaged by his opponents. He called to his aid, in the Department of State, successively, Mr. Van Buren, Mr. Livingston, Mr. McLane, and Mr. Forsythe.

Now, Mr. President, let us see what progress General Jackson made, with the assistance of these able and skilful negotiators, in this highly important business. Why, sir, the whole story is told by reference to his several annual messages. In his fourth annual message, December, 1832, he says: "The question of our

Northeastern Boundary still remains unsettled." In December, 1833, he says: "The interesting question of our Northeastern Boundary remains still undecided. A negotiation, however, upon that subject, has been renewed since the close of the last Congress." In December, 1834, he says: "The question of the Northeastern Boundary is still pending with Great Britain, and the proposition made in accordance with the resolution of the Senate for the establishment of a line according to the treaty of 1783, has not been accepted by that Government. Believing that every disposition is felt on both sides to adjust this perplexing question to the satisfaction of all the parties interested in it, the hope is yet indulged that it may be effected on the basis of that proposition." In December, 1835, a similar story is rehearsed: "In the settlement of the question of the Northeastern Boundary," says President Jackson, "little progress has been made. Great Britain has declined acceding to the proposition of the United States, presented in accordance with the resolution of the Senate, unless certain preliminary conditions are admitted, which I deemed incompatible with a satisfactory and rightful adjustment of the controversy." And in his last message, the President gives an account of all his efforts, and all his success, in regard to this most important point in our foreign relations, in these words: "I regret to say, that many questions of an interesting nature, at issue with other powers, are yet unadjusted; among the most prominent of these, is that of the Northeastern Boundary. With an undiminished confidence in the sincere desire of his Britannic Majesty's Government to adjust that question, I am not yet in possession of the precise grounds upon which it proposes a satisfactory adjustment."

With all his confidence, so often repeated, in the sincere desire of England to adjust the dispute, with all the talents and industry of his successive cabinets, this question, admitted to be the most prominent of all those on which we were at issue with foreign powers, had not advanced one step since the rejection of the Dutch award, nor did Gen. Jackson know the grounds upon which a satisfactory adjustment was to be expected. All this is undeniably true; and it was all admitted to be true by Mr. Van Buren when he came into office; for, in his first annual message, he says:

"Of pending questions the most important is that which exists with the Government of Great Britain, in respect to our Northeastern Boundary. It is with unfeigned regret

that the people of the United States must look back upon the abortive efforts made by the Executive for a period of more than half a century, to determine what no nation should suffer long to remain in dispute, the true line which divides its possessions from those of other powers. The nature of the settlements on the borders of the United States, and of the neighboring territory, was for a season such, that this, perhaps, was not indispensable to a faithful performance of the duties of the Federal Government. Time has, however, changed the state of things, and has brought about a condition of affairs in which the true interests of both countries imperatively require that this question should be put at rest. It is not to be disguised that, with full confidence, often expressed in the desire of the British Government to terminate it, we are apparently as far from its adjustment as we were at the time of signing the treaty of peace, 1783." * * * "The conviction, which must be common to all, of the injurious consequences that result from keeping open this irritating question, and the certainty that its final settlement cannot be much longer deferred, will, I trust, lead to an early and satisfactory adjustment. At your last session, I laid before you the recent communications between the two Governments, and between this Government and that of the State of Maine, in whose solicitude, concerning a subject in which she has so deep an interest, every portion of the Union participates."

Now, sir, let us pause and consider this. Here we are, fifty-three years from the date of the Treaty of Peace, and the boundaries not yet settled. Gen. Jackson has tried his hand at the business for five years, and has done nothing. He cannot make the thing move. And why not? Do he and his advisers want skill and energy, or are there difficulties in the nature of the case, not to be overcome till some wiser course of proceeding shall be adopted? Up to this time not one step of progress has been made. This is admitted, and is, indeed, undeniable.

Well, sir, Mr. Van Buren then began his administration under the deepest conviction of the importance of the question, in the fullest confidence in the sincerity of the British Government, and with the consciousness that the solicitude of Maine concerning the subject, was a solicitude in which every portion of the Union participated.

And now, sir, what did he do? What did he accomplish? What progress did he make? What step, forward, did he take, in the whole course of his administration? Seeing the full importance of the subject, addressing himself to it, and not doubting the just disposition of England, I ask again, what did he do? What did he do? What advance did he make? Sir, not one step, in his whole four years. Or, rather, if he made any advance at all, it was an advance backward; for, undoubtedly, he left the question in a much worse condition than he found it, not only on account of the disturbances

and outbreaks which had taken place on the border, for the want of an adjustment, and which disturbances, themselves, had raised new and difficult questions, but on account of the intricacies, and complexities, and perplexities, in which the correspondence had become involved. There was a mesh—an entanglement, which rendered it far more difficult to proceed with the subject than if the question had been fresh and unembarrassed.

I must now ask the Senate to indulge me in something more of an extended and particular reference to proofs and papers, than is in accordance with my general habits in debate; because I wish to present to the Senate, and to the country, the grounds of what I have just said.

And let us follow the administration of Mr. Van Buren, from his first message, and see how this important matter fares in his hands.

On the 20th of March, 1838, he sent a message to the Senate, with a correspondence between Mr. Fox and Mr. Forsythe. In this correspondence Mr. Fox says:

"The United States Government have proposed two modes in which such a commission might be constituted; first, that it might consist of commissioners, named in equal numbers, by each of the two Governments, with an umpire to be selected by some friendly European power. Secondly, that it might be entirely composed of scientific Europeans, to be selected by a friendly sovereign, and might be accompanied, in its operations, by agents of the two different parties, in order that such agents might give to the commissioners assistance and information.

* * * * * * *

Her Majesty's Government have, themselves, already stated that they have little expectation that such a commission could lead to any useful result, and that they would, on that account, be disposed to object to it; and if Her Majesty's Government were now to agree to appoint such a commission, it would only be in compliance with the desire so strongly expressed by the Government of the United States, and in spite of doubts, which Her Majesty's Government still continue to entertain, of the efficacy of the measure."

To this Mr. Forsythe replies, that he perceives, with feelings of deep disappointment, that the answer to the propositions of the United States is so indefinite, as to render it impracticable to ascertain, without further discussion, what are the real wishes and intentions of Her Majesty's Government. Here, then, a new discussion arises, to find out, if it can be found out, what the parties mean. Meantime Mr. Forsythe writes a letter, of twenty or thirty pages, to the Governor of Maine, concluding with a suggestion that His Excellency

should take measures to ascertain the sense of the State of Maine, with respect to the expediency of a conventional line. This correspondence repeats the proposition of a joint exploration, by commissioners, and Mr. Fox accedes to it, in deference to the wishes of the United States, but with very little hope that any good will come of it.

Here is the upshot of one whole year's work. Mr. Van Buren sums it up thus, in his message of December, 1838:

"With respect to the Northeastern Boundary of the United States, no official correspondence between this Government and that of Great Britain has passed since that communicated to Congress towards the close of their last session. The offer to negotiate a convention for the appointment of a joint commission of survey and exploration, I am, however, assured will be met by Her Majesty's Government in a conciliatory and friendly spirit, and instructions to enable the British Minister here to conclude such an arrangement will be transmitted to him without needless delay."

We may now look for instructions to Mr. Fox, to conclude an arrangement for a joint commission of survey and exploration. Survey and exploration! As if there had not already been enough of both! But thus terminates 1838, with a hope of coming to an agreement for a survey! Great progress this, surely.

And now we come to 1839; and what, sir, think you, was the product of diplomatic fertility and cultivation, in the year 1839. Sir, the harvest was one *project*, and one *counter* project.

On the 20th of May Mr. Fox sent to Mr. Forsythe a draught of a convention for a joint exploration, by commissioners, the commissioners to make report to their respective Governments.

This was the British *project*.

On the 29th of July Mr. Forsythe sent to Mr. Fox a *counter project*, embracing the principle of arbitration. By this, if the commissioners did not agree, a reference was to be had to three persons, selected by three friendly Sovereigns or States; and these arbitrators might order another survey. Here the parties, apparently fatigued with their efforts, paused; and the labors of the year are thus rehearsed and recapitulated by Mr. Van Buren at the end of the season:

"For the settlement of our northeastern boundary, the proposition promised by Great Britain for a commission of exploration and survey, has been received, and a counter project, including also a provision for the certain and final adjustment of the limits in dispute, is now before the British Government for its consideration. A just regard to the delicate state of this question, and a proper respect for the natural impatience of the State of Maine, not less than a conviction that the negotiation has been already protracted longer than is prudent on the part of either Government, have led me to believe

that the present favorable moment should, on no account, be suffered to pass without putting the question forever at rest. I feel confident that the Government of Her Britannic Majesty will take the same view of the subject, as I am persuaded it is governed by desires equally strong and sincere for the amicable termination of the controversy."

Here, sir, in this "delicate state of the question" all things rested, till the next year.

Early after the commencement of the warm weather, in 1840, the industrious diplomatists resumed their severe and rigorous labors, and on the 22d June, 1840, Mr. Fox writes thus to Mr. Forsythe:

"The British Government and the Government of the U. S. agreed, two years ago, that a survey of the disputed territory, by a joint commission, would be the measure best calculated to elucidate and solve the questions at issue. The President proposed such a commission, and Her Majesty's Government consented to it; and it was believed by Her Majesty's Government, that the general principles upon which the commission was to be guided in its local operations had been settled by mutual agreement, arrived at by means of a correspondence which took place between the two Governments in 1837 and 1838. Her Majesty's Government accordingly transmitted, in April of last year, for the consideration of the President, a draught of the convention, to regulate the proceedings of the proposed convention."

"The preamble of that draught recited, textually, the agreement that had been come to by means of notes which had been exchanged between the two Governments; and the articles of the draught were framed, as Her Majesty's Government considered, in strict conformity with that agreement.

"But the Government of the U. S. did not think proper to assent to the convention so proposed.

"The U. S. Government did not, indeed, allege that the proposed convention was at variance with the result of the previous correspondence between the two Governments; but it thought that the convention would establish a commission of 'mere exploration and survey;' and the President was of opinion that the step next to be taken by the two Governments should be to contract stipulations, bearing upon the face of them the promise of a final settlement, under some form or other, and within a reasonable time.

"The U. S. Government accordingly transmitted to the undersigned, for communication to Her Majesty's Government, in the month of July last, a counter draught of convention, varying considerably in some parts (as the Secretary of State of the U. S. admitted, in his letter to the undersigned of the 29th of July last) from the draught proposed by Great Britain."

* * * * * * * *

"There was, undoubtedly, one essential difference between the British draught and the American counter draught.

"The British draught contained no provision embodying the principle of arbitration. The American counter draught did contain such a provision.

"The British draught contained no provision for arbitration, because the principle of arbitration had not been proposed on either side during the negotiations upon which that draught was founded; and because, moreover, it was understood, at that time, that the principle of arbitration would be decidedly objected to by the United States. But as the U. S. Government have now expressed a wish to embody the principle of arbi-

tration in the proposed convention, Her Majesty's Government are perfectly willing to accede to that wish.

"The undersigned is accordingly instructed to state, officially to Mr. Forsythe, that Her Majesty's Government consent to the two principles which form the main foundation of the American counter draught, namely: first, that the commission to be appointed shall be so constituted as necessarily to lead to a final settlement of the questions of boundary at issue between the two countries; and, secondly, that, in order to secure such a result, the convention by which the commission is to be created, shall contain a provision for arbitration upon points as to which the British and American commission may not be able to agree.

"The undersigned is, however, instructed to add, that there are many matters of detail in the American counter draught which Her Majesty's Government cannot adopt.

"The undersigned will be furnished from his Government, by an early opportunity, with an amended draught, in conformity with the principles above stated, to be submitted to the consideration of the President. And the undersigned expects to be at the same time furnished with instructions to propose to the Government of the U. S. a fresh, local, and temporary convention, for the better prevention of incidental border collisions within the disputed territory during the time that may be occupied in carrying through the operations of survey or arbitration."

And on the 26th of June Mr. Forsythe replies, and says:

"That he derives great satisfaction from the announcement that Her Majesty's Government do not relinquish the hope that the sincere desire which is felt by both parties to arrive at an amicable settlement, will at length be attended with success; and from the prospect held out by Mr. Fox of his being accordingly furnished, by an early opportunity, with the draught of a proposition amended in conformity with the principles to which Her Majesty's Government has acceded, to be submitted to the consideration of this Government."

On the 28th of July, 1840, the British amended draught came. This draught proposed that commissioners should be appointed, as before, to make exploration; that umpires or arbitrators should be appointed by three friendly sovereigns, and that the arbitration should sit in Germany, at Frankfort on the Maine. And the draught contains many articles of arrangement and detail, for carrying the exploration and arbitration into effect.

At the same time Mr. Fox sends to Mr. Forsythe the report of two British commissioners, Messrs. Mudge and Featherstonhaugh, who had made an *ex parte* survey in 1839. And a most extraordinary report it was. These gentlemen had discovered, that up to that time, nobody had been right; they run the line still farther south than any body had ever imagined, and discovered highlands which, in all previous examinations and explorations, had escaped all mortal eyes.

Here, then, we had one *project* more, for exploration and arbitration, together with a report from the British commissioners of survey,

pushing the British claims still further into the territories of the State of Maine.

And on the 13th of August, there comes again, as matter of course, from Mr. Forsythe, another *counter project*. Lord Palmerston is never richer in *projects*, than Mr. Forsythe is in *counter projects*. There is always a Rowland for an Oliver. This *counter project* of the 13th of August, 1840, was drawn in the retirement of Albany. It consists of 18 articles, which it is hardly necessary to describe particularly. Of course, it proceeds on the two principles already agreed on, of exploration and arbitration; but in all matters of arrangement and detail, it was quite different from Lord Palmerston's draught, communicated by Mr. Fox.

And here the rapid march of diplomacy came to a dead halt. Mr. Fox found so many, and such great, changes proposed to the British draught, that he did not incline to discuss them. He did not believe the British Government would ever agree to Mr. Forsythe's plan, but he would send it home, and see what could be done with it.

Thus stood matters at the end of 1840, and in his message, at the meeting of Congress in December of that year, his valedictory message, Mr. Van Buren thus describes that condition of things, which he found to be the result of his four years of negotiation.

"In my last annual message you were informed that a proposition for a commission of exploration and survey, promised by Great Britain, had been received, and that a counter project, including also a provision for the certain and final adjustment of the the limits in dispute, was then before the British Government for its consideration. The answer of that Government, accompanied by additional propositions of its own, was received through its minister here, since your separation. These were promptly considered; such as were deemed correct in principle, and consistent with a due regard to the just rights of the United States and of the State of Maine, concurred in; and the reasons for dissenting from the residue, with an additional suggestion on our part, communicated by the Secretary of State to Mr. Fox.' That minister, not feeling himself sufficiently instructed upon some of the points raised in the discussion, felt it to be his duty to refer the matter to his own Government for its farther decision."

And now, sir, who will deny that this is a very promising condition of things, to exist FIFTY-SEVEN years after the conclusion of the treaty!

Here is the British project for exploration; then the American counter project for exploration, to be the foundation of arbitration. Next, the answer of Great Britain to our counter project, stating divers exceptions and objections to it, and with sundry new and additional

propositions of her own. Some of these were concurred in, but others dissented from, and other additional suggestions on our part were proposed; and all these concurrences, dissents, and new suggestions were brought together and incorporated into Mr. Forsythe's last labor of diplomacy, at least his last labor in regard to this subject, his counter project of August the 13th, 1840. That counter project was sent to England, to see what Lord Palmerston could make of it. It fared in the Foreign Office, just as Mr. Fox had foretold. Lord Palmerston would have nothing to do with it. He would not answer it; he would not touch it; he gave up the negotiation in apparent despair. Two years before, the parties had agreed on the principle of joint exploration, and the principle of arbitration. But in their subsequent correspondence, on matters of detail, modes of proceeding, and subordinate arrangements, they had, through the whole two years, constantly receded farther, and farther, and farther, from each other. They were flying apart; and, like two orbs, going off in opposite directions, could only meet after they should have traversed the whole circle.

But this exposition of the case does not describe, by any means, all the difficulties and embarrassments arising from the unsettled state of the controversy. We all remember the troubles of 1839. Something like a border war had broke out. Maine had raised an armed *civil posse;* she fortified the line, or points on the line, of territory, to keep off intruders and to defend possession. There was Fort Fairfield, Fort Kent, and I know not what other fortresses, all memorable in history. The legislature of Maine had placed eight hundred thousand dollars at the discretion of the Governor, to be used for the military defence of the State. Major General Scott had repaired to the frontier, and under his mediation, an agreement, a sort of treaty, respecting the temporary possession of the two parties, of the territory in dispute, was entered into between the Governors of Maine and New Brunswick. But as it could not be foreseen how long the principal dispute would be protracted, Mr. Fox, as has already been seen, wrote home for instructions for another treaty—a treaty of less dignity—a collateral treaty—a treaty to regulate the terms of possession, and the means of keeping the peace of the frontier, while the number of years should roll away, necessary, first, to spin out the whole thread of diplomacy in forming a convention; next, for three or four years of joint exploration of seven hundred miles of disputed boundary in the wilder-

ness of North America; and, finally, to learn the results of an arbitration which was to sit at Frankfort on the Maine, composed of learned doctors from the German universities.

Really, sir, is not this a most delightful prospect? Is there not here as beautiful a labyrinth of diplomacy as one could wish to look at, of a summer's day? Would not Castlereagh and Talleyrand, Nesselrode and Metternich, find it an entanglement worthy the labor of their own hands to unravel? Is it not apparent, Mr. President, that at this time the settlement of the question, by this kind of diplomacy, if to be reached by any vision, required telescopic sight? The country was settling; individual rights were getting into collision; it was impossible to prevent disputes and disturbances; every consideration required, that whatever was to be done should be done quickly; and yet every thing, thus far, had waited the sluggish flow of the current of diplomacy. *Labitur et labetur.*

I have already stated, that on the receipt of Mr. Forsythe's last counter plan, or counter project, Lord Palmerston, at last, paused. He did so. The British Government appears to have made up its mind that nothing was to be expected, at that time, from pursuing farther this battledore play of *projets* and *contré* projéts. What occurred in England, we collect from the published debates of the House of Commons. From these we learn, that after General Harrison's election, and, indeed, after his death, and in the first year of Mr. Tyler's Presidency, Lord Palmerston wrote to Mr. Fox as follows:

"Her Majesty's Government received, with very great regret, the second American counter-draught of a convention for determining the boundary between the United States and the British North American Provinces, which you transmitted to me last autumn, in your despatch of the 15th of August, 1840, because that counter-draught contained so many inadmissible propositions, that it plainly showed that Her Majesty's Government could entertain no hope of concluding any arrangement on this subject with the government of Mr. Van Buren, and that there was no use in taking any further steps in the negotiations till the new President should come into power. Her Majesty's Government had certainly been persuaded that a draught which, in pursuance of your instruction, you presented to Mr. Forsythe, on the 28th of July, 1840, was so fair in its provision, and so well calculated to bring the differences, between the two Governments, about the boundary, to a just and satisfactory conclusion, that it would have been at once accepted by the Government of the United States; or that if the American Government had proposed to make any alterations in it, those alterations would have related merely to matters of detail, and would not have borne upon any essential points of the arrangement; and Her Majesty's Government were the more confirmed in this hope, because almost all the main principles of the arrangement which that draught was intended to carry

into execution, had, as Her Majesty's Government conceived, been either suggested by, or agreed to by, the United States Government itself."

Lord Palmerston is represented to have said, in this despatch of Mr. Forsythe's counter project, that he "cannot agree" to the preamble; that he "cannot consent" to the second article; that he "must object to the 4th article;" that the "7th article imposed incompatible duties;" and to every article there was an objection, stated in a different form, until he reached the 10th, and that, as to that, "none could be more inadmissible."

This was the state of the negotiation, a few days before Lord Palmerston's retirement. But, nevertheless, his Lordship would make one more attempt, now that there was a new administration here, and he would make "*new proposals.*" And what were they?

"And what does the House think," said Sir R. Peel, in the House of Commons, "were the noble Lord's proposals in that desperate state of circumstances? The proposal of the noble Lord, after fifty-eight years of controversy, submitted by him to the American Government for the purpose of a speedy settlement, was that commissioners should be nominated on both sides; that they should attempt to make settlement of this long disputed question; and then, if that failed, that the King of Prussia, the King of Sardinia, and the King of Saxony, were to be called in, not to act as umpires, but they were each to be requested to name a scientific man, and that these three members of a scientific commission should proceed to arbitrate. Was there ever a proposition like this suggested for the arrangement of a question on which two countries had differed for fifty-eight years? And this, too, was proposed after the failure of the arbitration on the part of the King of Holland, and when they had had their commission of exploration in vain. And yet, with all this, there were to be three scientific men, foreign professors—one from Prussia, one from Sardinia, and one from Saxony! To do what? And where were they to meet; or how were they to come to a satisfactory adjustment?"

It was asked in the House of Commons, not inaptly, what would the people of Maine think, when they should read that they were to be visited by three learned foreigners, one from Prussia, one from Saxony, and one from Sardinia? To be sure; what would they think, when they should see three learned foreign professors, each speaking a different language, and none of them the English or American tongue, among the swamps and morasses of Maine, in summer, or wading through its snows in winter; on the Allagash, the Macadavie, or among the moose deer, on the precipitous and lofty shores of Lake Pohemagamook—and for what? To find where the division was, between Maine and New Brunswick! Instructing themselves, by these labors, that they might repair to Frankfort on the Maine, and

there hold solemn and scientific arbitration on the question of a boundary line, in one of the deepest wildernesses of North America!

Sir, I do not know what might have happened, if this project had gone on. Possibly, sir, but that your country has called you to higher duties, you might now have been at Frankfort on the Maine, the advocate of our cause before the scientific arbitration. If not yourself, some one of the honorable members here very probably would have been employed in attempting to utter the almost unspeakable names, bestowed by the northeastern Indians on American lakes and streams, in the heart of Germany.

Mr. Fox, it is said, on reading his despatch, replied, with characteristic promptitude and good sense, "for God's sake save us from the philosophers. Have sovereigns, if you please, but no professional men."

But Mr. Fox was instructed, as it now appears, to renew his exertions to carry forward the arbitration. "Let us," said Lord Palmerston, in writing to him, "let us consider the American *contre projet* as unreasonable, undeserving of answer, as withdrawn from consideration, and now submit my original *projet* to Mr. Webster, the new Secretary of State, and persuade him it is reasonable."

With all respect, sir, to Lord Palmerston, Mr. Webster was not to be so persuaded; that is to say, he was not persuaded that it was reasonable, or wise, or prudent to pursue the negotiation in this form, further. He hoped to live long enough to see the northeastern boundary settled; but that hope was faint, unless he could rescue the question from the labyrinth of projects and counter projects, explorations and arbitration, in which it was involved. He could not reasonably expect that he had another whole half century of life before him.

Mr. President, it is true, that I viewed the case as hopeless, without an entire change in the manner of proceeding. I found the parties already "in wandering mazes lost." I found it quite as tedious and difficult to trace the thread of this intricate negotiation, as it would be to run out the line of the Highlands itself. One was quite as full as the other of deviations, abruptnesses, and perplexities. And having received the President's (Mr. Tyler's) authority, I did say to Mr. Fox, as has been stated in the British Parliament, that I was willing to attempt to settle the dispute by agreeing on a conventional line, or line by compromise.

Mr. President, I was fully aware of the difficulty of the undertaking. I saw it was a serious affair to call on Maine to come into an agreement, by which she might subject herself to the loss of territory which she regarded as clearly her own. The question touched her proprietary interests, and what was more delicate, it touched the extent of her jurisdiction. I knew well her extreme jealousy and high feeling on this point.* But I believed in her patriotism, and in her willingness to make sacrifices for the good of the country. I trusted, too, that her own good sense would lead her, while she, doubtless, preferred the strict execution of the treaty, as she understood it, to any line by compromise, to see, nevertheless, that the Government of the United States was already pledged to arbitration, by its own proposition and the agreement of Great Britain; that this arbitration might not be concluded and finished for many years, and that, after all, the result might be doubtful. With this reliance on the patriotism and good sense of Maine, and with the sanction of the President, I was willing to make an effort to establish a boundary by direct compromise and agreement—by acts of the parties themselves, which they could understand and judge of for themselves—by a proceeding which left nothing to the future judgment of others, and by which the controversy could be settled in six months. And, sir, I leave it to the Senate to day, and the country always, to say, how far this offer and this effort were wise or unwise, statesmanlike or unstatesmanlike, beneficial or injurious.

Well, sir, in the autumn of 1841, it was known in England to be the opinion of the American Government, that it was not advisable to prosecute further the scheme of arbitration; that that Government was ready to open a negotiation for a conventional line of boundary; and a letter from Mr. Everett, dated on the 31st of December, an-

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* It is now well known, that in 1832, an agreement was entered into between some of the Heads of Departments at Washington, viz: Messrs. Livingston, McLane, and Woodbury, under the direction of President Jackson, on the part of the United States, and Messrs. Preble, Williams and Emery, on the part of the Government of Maine, by which it was stipulated that Maine should surrender to the United States the territory which she claimed beyond the line designated by the King of the Netherlands, and receive, as an indemnity, ONE MILLION of acres of the public lands, to be selected by herself, in Michigan. The existence of this *treaty* was not known for some time, and it was never ratified by the high contracting parties.

nounced the determination of the British Government to send a special minister to the United States, authorized to settle all matters in difference, and the selection of Lord Ashburton for that trust.* This letter was answered, on the 29th of January, by an assurance that Lord Ashburton would be received with the respect due to his Government and to himself.† Lord Ashburton arrived in Washington on the 4th of April, 1842, and was presented to the President on the 6th.

On the 11th, a letter was written from the Department of State to the Governor of Maine, announcing his arrival, and his declaration that he had authority to treat for a conventional line of boundary, or line by agreement, on mutual conditions, considerations, and equivalents.‡

The Governor of Maine was informed that,

"Under these circumstances, the President had felt it to be his duty to call the serious attention of the Governments of Maine and Massachusetts to the subject, and to submit to those Governments the propriety of their co-operation, to a certain extent, and in a certain form, in an endeavor to terminate a controversy already of so long duration, and which seems very likely to be still considerably further protracted before the desired end of a final adjustment shall be attained, unless a shorter course of arriving at that end be adopted than such as has heretofore been pursued, and as the two Governments are still pursuing.

"The opinion of this Government upon the justice and validity of the American claim has been expressed at so many times, and in so many forms, that a repetition of that opinion is not necessary. But the subject is a subject in dispute. The Government has agreed to make it a matter of reference and arbitration; and it must fulfil that agreement, unless another mode of settling the controversy should be resorted to with the hope of producing a speedier decision. The President proposes, then, that the Governments of Maine and Massachusetts should severally appoint a commissioner or commissioners, empowered to confer with the authorities of this Government upon a conventional line, or line by agreement, with its terms, conditions, considerations, and equivalents, with an understanding that no such line will be agreed upon, without the assent of such commissioners.

"This mode of proceeding, or some other which shall express assent beforehand, seems indispensable, if any negotiation for a conventional line is to be had; since, if happily a treaty should be the result of the negotiation, it can only be submitted to the Senate of the United States for ratification."

A similar letter was addressed to the Governor of Massachusetts. The Governor of Maine, now an honorable member of this House, immediately convoked the legislature of Maine, by proclamation.

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* Appendix I. † Appendix II. ‡ Appendix III.

In Massachusetts, the probable exigency had been anticipated, and the legislature had authorized the Governor, now my honorable colleague here, to appoint commissioners on behalf of the Commonwealth. The legislature of Maine adopted resolutions to the same effect, and duly elected four commissioners from among the most eminent persons in the State, of all parties; and their unanimous consent to any proposed line of boundary was made indispensable. Three distinguished public men, known to all parties, and having the confidence of all parties, in any question of this kind, were appointed commissioners by the Governor of Massachusetts.

Now, sir, I ask, could any thing have been devised fairer, safer, and better for all parties than this? The States were here, by their commissioners; Great Britain was here, by her special minister, and the Canadian and New Brunswick authorities within reach of the means of consultation; and the Government of the United States was ready to proceed with the important duties it had assumed. Sir, I put the question to any man of sense, whether, supposing the real object to be a fair, just, convenient, prompt settlement of the boundary dispute, this state of things was not more promising than all the schemes of exploration and arbitration, and all the tissue of projects and counter projects, with which the two Governments had been making themselves strenuously idle for so many years? Nor was the promise not fulfilled.

It has been said, absurdly enough, that Maine was coerced into a consent to this line of boundary. What was the coercion? Where was the coercion? On the one hand, she saw an immediate and reasonable settlement; on the other hand, a proceeding sure to be long, and its result seen to be doubtful. Sir, the coercion was none other than the coercion of duty, good sense, and manifest interest. The right and the expedient united, to compel her to give up the wrong, the useless, the inexpedient.

Maine was asked to judge for herself, to decide on her own interests, not unmindful, nevertheless, of those patriotic considerations which should lead her to regard the peace and prosperity of the whole country. Maine, it has been said, was persuaded to part with a portion of territory by this agreement. Persuaded! Why, sir, she was invited here to make a compromise—to give and to take—to surrender territory of very little value for equivalent advantages, of which

advantages she was herself to be the uncontrolled judge. Her commissioners needed no guardians. They knew her interest. They knew what they were called on to part with, and the value of what they could obtain in exchange. They knew especially that on one hand was immediate settlement, on the other, ten or fifteen years more of delay and vexation. Sir, the piteous tears shed for Maine, in this respect, are not her own tears. They are the crocodile tears of pretended friendship and party sentimentality. Lamentations and griefs have been uttered in this Capitol about the losses and sacrifices of Maine, which nine-tenths of the people of Maine laugh at. Nine-tenths of her people, to this day, heartily approve the treaty. It is my full belief that there are not, at this moment, fifty respectable persons in Maine who would now wish to see the treaty annulled, and the State replaced in the condition in which it was, with Mr. Van Buren's arbitration before it, and inevitably fixed upon it, by the plighted faith of this Government, on the 4th of March, 1841.

Sir, the occasion called for the revision of a very long line of boundary; and what complicated the case, and rendered it more difficult, was, that the territory on the side of the United States belonged to no less than four different States. The establishment of the boundary was to affect Maine, New Hampshire, Vermont, and New York. All these States were to be satisfied, if properly they could be. Maine, it is true, was principally concerned. But she did not expect to retain all that she called her own, and yet get more; and still call it compromise, and an exchange of equivalents. She was not so absurd. I regret some things which occurred; particularly that while the commissioners of Maine assented, unanimously, to the boundary proposed, on the equivalents proposed, yet, in the paper in which they express that assent, they seem to argue against the act which they were about to perform. This, I think, was a mistake. It had an awkward appearance, and probably gave rise to whatever of dissatisfaction has been expressed in any quarter.

And now, sir, I am prepared to ask whether the proceeding adopted, that is, an attempt to settle this long controversy, by the assent of the States concerned, was not wise and discreet, under the circumstances of the case? Sir, the attempt succeeded, and it put an end to a controversy which had subsisted, with no little inconvenience to the country, and danger to its peace, through every administration,

from that of General Washington to that of Mr. Van Buren. It is due to truth, and to the occasion, to say, that there were difficulties and obstacles in the way of this settlement, which had not been overcome under the administration of Washington, or the elder Adams, or Mr. Jefferson, or Mr. Madison, or Mr. Monroe, or Mr. J. Q. Adams, or General Jackson, or Mr. Van Buren. In 1842, in the administration of Mr. Tyler, the dispute was settled, and settled satisfactorily.

Sir, whatever may be said to the contrary, Maine was no loser, but an evident gainer, by this adjustment of boundary. She parted with some portion of territory; this I would not undervalue; but certainly most of it was quite worthless. Capt. Talcot's report, and other evidence, sufficiently establish that fact.*

Maine having, by her own free consent, agreed to part with this portion of terrritory, received, in the first place, from the Treasury of the United States, $150,000, for her half of the land, a sum which I suppose to be much greater than she would have realized from the sale of it in fifty years. No person, well informed on the subject, can doubt this.

In the next place, the United States Government paid her for the expenses of her *civil posse* to defend the State, and also for the surveys. On this account she has already received $200,000, and hopes to receive 80 or 100,000 dollars more. If this hope shall be realized, she will have received $450,000 in cash.

But Maine I admit did not look, and ought not to have looked, to the treaty as a mere pecuniary bargain. She looked at other things, besides money. She took into consideration that she was to enjoy the free navigation of the river St. John's. I thought this a great object at the time the treaty was made; but I had then no adequate conception of its real importance. Circumstances which have since taken place show that its advantages to the State are far greater than I then supposed. That river is to be free to the citizens of Maine for the transportation down its stream of all unmanufactured articles whatever. Now, what is this river St. John's? We have heard a vast deal lately of the immense value and importance of the river Columbia and its navigation; but I will undertake to say that, for all purposes of human use, the St. John's is worth a hundred times as much

*Appendix IV.

as the Columbia is, or ever will be. In point of magnitude, it is one of the most respectable rivers on the eastern side of this part of America. It is longer than the Hudson, and as large as the Delaware. And, moreover, it is a river which has a mouth to it, and that, in the opinion of the member from Arkansas, (Mr. SEVIER,) is a thing of some importance in the matter of rivers. [A laugh.] It is navigable from the sea, and by steamboats, to a greater distance than the Columbia. It runs through a good country, and its sources afford a communication with the Aroostook valley. And I will leave it to the Member from Maine to say whether that valley is not one of the finest and most fertile parts of the State. And I will leave it not only to him, but to any man at all acquainted with the facts, whether this free navigation of the St. John's has not, at once, greatly raised the value of the lands on Fish river, on the Allegash, Madawasca, and the St. Francis. That whole region has no other outlet, and the value of the lumber which has, during this very year, been floated down that river, is far greater than that of all the furs which have descended from Fort Vancouvre to the Pacific. On this subject I am enabled to speak with authority, for it has so happened that, since the last adjournment of the Senate, I have looked at an official return of the Hudson's Bay Company, showing the actual extent of the fur trade in Oregon, and I find it to be much less than I had supposed. An intelligent gentleman from Missouri estimated the value of that trade, on the west of the Rocky Mountains, at three hundred thousand dollars annually; but I find it stated in the last publication by Mr. McGregor, of the board of trade in England, (a very accurate authority,) that the receipts of the Hudson's Bay Company for furs west of the Rocky Mountains, in 1828, is placed at $138,000. I do not know, though the member from Missouri is likely to know, whether all these furs are brought to Fort Vancouvre; or whether some of them are not sent through the passes in the mountains to Hudson's Bay; or to Montreal, by the way of the north shore of Lake Superior. I suppose this last to be the case. It is stated, however, by the same authority, that the amount of goods received at Vancouvre, and disposed of in payment for furs, is $20,000, annually, and no more.

Now, sir, this right to carry lumber, and grain, and cattle to the mouth of the river St. John's, on equal terms with the British, is a matter of great importance; it brings lands lying on its upper branches, far in the interior, into direct communication with the sea.

Those lands are valuable for timber now, and a portion of them are the best in the State for agriculture. The fact has been stated to me, on the best authority, that in the Aroostook valley land is to be found which has yielded more than forty bushels of wheat to the acre, even under the common cultivation of new countries. I must, therefore, think that the commissioners from Maine were quite right in believing that this was an important acquisition for their State, and one worth the surrender of some acres of barren mountains and impenetrable swamps.

But, Mr. President, there is another class of objections to this treaty boundary, on which I wish to submit a few remarks. It has been alleged, that the treaty of Washington ceded very important military advantages on this continent to the British Government. One of these is said to be a military road between the two provinces of New Brunswick and Lower Canada; and the other is the possession of certain heights, well adapted, as is alleged, to military defence. I think the honorable member from N. Y., farthest from the chair, (Mr. Dix,) said, that by the treaty of Washington, a military road was surrendered to England, which she considered as of vital importance to her possessions in America.

Mr. Dix rose to explain. He had not spoken of a "military *road*," but of a portion of territory affording a means of military communication between two of her provinces.

Mr. W. Well, it is the same thing, and we will see how that matter stands. The honorable member says, that he said a means of military communication, and not a military road. I am not a military man, and therefore may not so clearly comprehend, as that member does, the difference between a military road and a means of military communication, [a laugh;] but I will read from the honorable member's speech, which I have before me, understood to have been revised by himself. The honorable member says:

"The settlement of the northeastern boundary—one of the most delicate and difficult that has ever arisen between us—affords a striking evidence of our desire to maintain with her the most friendly understanding. We ceded to her a portion of territory which she deemed of vital importance as a means of military communication between the Canadas and her Atlantic provinces, and which will give her a great advantage in a contest with us. The measure was sustained by the constituted authorities of the country, and I have no desire or intention to call its wisdom in question. But it proves that we were not unwilling to afford Great Britain any facility she required for consolidating her North American possessions—acting in peace as though war was not to be expected between

the two countries. If we had cherished any ambitious designs in respect to them—if we had had any other wish than that of continuing on terms of amity with her and them—this great military advantage would never have been conceded to her.

"On the other hand, I regret to say, that her course towards us has been a course of perpetual encroachment. But, sir, I will not look back upon what is past for the purpose of reviving disturbing recollections."

I should be very glad if the honorable gentleman would show how England derives so highly important benefits from the treaty, in a military point of view, or what proof there is that she so considers the matter.

Mr. Dix said that this treaty had been proclaimed by the President in the latter part of the year 1842. Mr. D. had, at that time, left the country. The injunction of secrecy had been removed from the proceedings of the Senate in regard to the ratification. Although temporarily absent from the country, Mr. D. had not lost sight of the state of things at home. He read with interest the debates in the British House of Parliament in regard to the treaty, and he was struck with the fact, (and the debates would bear him out in the statement,) that distinguished public men deemed the acquisition of territory which had been gained, to be one of vital importance as a means of connexion and communication between their provinces in America. As to a military road, he had never traced its course upon the map; but he believed that it passed along the east bank of the St. John's until that river turned westward, and then along its north bank toward Quebec. But by the award of the King of Holland, the road would have had to run quite round the head of the river St. Francis. By that award, our boundary was to pass over the range of highlands, far to the north, and near the St. Lawrence river. But by the treaty of Washington, the line leaves those heights, and was so thrown back as to pass several miles farther to the eastward. He had some notes here of the debates in Parliament, and as the gentleman had called upon him for his proof, Mr. D. would read a few extracts. Here Mr. Dix read sundry extracts from debates in the House of Commons, and said he thought they sustained his position. But he desired to say, that he had raised no question touching the wisdom of the provisions of the treaty, or made any reflections either on those who negotiated the treaty, nor on those who ratified it.

Mr. W. proceeded. The passages which the honorable member

has read, however pertinent they may be to another question, do not touch the question immediately before us. I understand, quite well, what was said of the heights; but nobody, so far as I know, ever spoke of this supposed military road or military communication, as of any importance at all, unless it be in a remark, not very intelligible, in an article ascribed to Lord Palmerston.

I was induced to refer to this subject, sir, by a circumstance which I have not long been apprised of. Lord Palmerston (if he be the author of certain publications ascribed to him) says that all the important points were given up by Lord Ashburton to the United States. I might here state, too, that Lord Palmerston called the whole treaty "the Ashburton capitulation," declaring that it yielded everything that was of importance to Great Britain, and that all its stipulations were to the advantage of the United States, and to the sacrifice of the interests of England. But it is not on such general statements, and such unjust statements, nor on any off-hand expressions used in debate, though in the roundest terms, that this question must turn. He speaks of this military road, but he entirely misplaces it. The road which runs from New Brunswick to Canada follows the north side of the St. John's to the mouth of the Madawasca, and then turning northwest, follows that stream to Lake Tamariscotta, and thence proceeds over a depressed part of the highlands till it strikes the St. Lawrence one hundred and seventeen miles below Quebec. This is the road which has been always used, and there is no other.

I admit, it is very convenient for the British Government to possess territory through which they may enjoy a road; it is of great value as an avenue of communication in time of peace; but, as a military communication, it is of no value at all. What business can an army ever have there? Besides, it is no gorge, no pass, no narrow defile, to be defended by a fort. If a fort should be built there an army could, at pleasure, make a detour so as to keep out of the reach of its guns. It is very useful, I admit, in time of peace. But does not every body know, military man or not, that unless there is a defile, or some narrow place through which troops must pass, and which a fortification will command, that a mere open road must, in time of war, be in the power of the strongest? If we retained the road by treaty, and war came, would not the English take possession of it if they could? Would they be restrained by a regard to the Treaty of Washington? I have never yet heard a reason adduced

why this communication should be regarded as the slightest possible advantage in a military point of view.

But the circumstance, which I have not long known, is, that, by a map published with the speech of the honorable member from Missouri, made in the Senate, on the question of ratifying the treaty, this well known and long used road is laid down, probably from the same source of error which misled Lord Palmerston, as following the St. John's, on its south side, to the mouth of the St. Francis; thence along that river to its source, and thence, by a single bound, over the highlands, to the St. Lawrence, near Quebec. This is all imagination. It is called the "Valley Road." Valley Road, indeed! Why, sir, it is represented as running over the very ridge of the most inaccessible part of the highlands! It is made to cross abrupt and broken precipices 2,000 feet high! It is, at different points of its imaginary course, from fifty to a hundred miles distant from the real road. So much, Mr. President, for the great boon of military communication conceded to England. It is nothing more nor less than a common road, along streams and lakes, and over a country, in great part rather flat. It then passes the heights to the St. Lawrence. If war breaks out we shall take it, if we can, and if we need it, of which there is not the slightest probability. It will never be protected by fortifications, and never can be. It will be just as easy to take it from England, in case of war, as it would be to keep possession of it, if it were our own.

In regard to the defence of the heights, I shall dispose of that subject in a few words. There is a ridge of highlands which does approach the river St. Lawrence, although it is not true that they overlook Quebec; on the contrary, the ridge is at the distance of thirty or forty miles.

It is very natural that military men in England, or indeed in any part of Europe, should have attached great importance to these mountains. The great military authority of England—perhaps the highest living military authority—had served in India and on the European continent, and it was natural enough that he should apply European ideas of military defences to America. But they are quite inapplicable. Highlands such as these were not ordinarily found on the great battle fields of Europe. They are neither Alps nor Pyrenees; they have no passes through them, nor

roads over them, and never will have. Then there was another reason. In 1839 an *ex parte* survey was made, as I have said, by Captain Mudge and Mr. Featherstonhaugh, if survey it could be called, of the region in the north of Maine, for the use of the British Government. I dare say Mr. Mudge is an intelligent and respectable officer; how much personal attention he gave the subject I do not know. As to Mr. Featherstonhaugh, he has been in our service, and his authority is not worth a straw. These two persons made a report, containing this very singular statement: That, in the ridge of highlands nearest to the St. Lawrence, there was a great *hiatus* in one particular place, a gap of thirty or forty miles, in which the elevation did not exceed fifty feet. This was certainly the strangest statement that ever was made. Their whole report gave but one measurement by the barometer, and that measurement stated the height of twelve hundred feet. A survey and map were made the following year by our own commissioners, Messrs. Graham and Talcot, of the Topographical Corps, and Professor Renwick, of Columbia College. On this map, the very spot where this gap was said to be situated is dotted over thickly with figures, showing heights varying from 1,200 to 2,000 feet, and forming one rough and lofty ridge, marked by abrupt and almost perpendicular precipices. When this map and report of Messrs. Mudge and Featherstonhaugh was sent to England, the British authorities saw that this alleged gap was laid down as an indefensible point, and it was probably on that ground alone that they desired a line east of that ridge, in order that they might guard against access of a hostile power from the United States. But in truth there is no such gap, not at all; our engineers proved this, and we quite well understood it when agreeing to the boundary. Any man of common sense, military or not, must, therefore, now see that nothing can be more imaginary or unfounded than the idea that any importance could attach to the possession of these heights.

Sir, there are two old and well known roads to Canada. One by way of Lake Champlain and the Richelieu, to Montreal. This is the route which armies have traversed so often, in different periods of our history. The other leads from the Kennebeck river to the sources of the Chaudiere and the Du Loup, and so to Quebec. This last was the track of Arnold's march. East of this, there is no practicable communication for troops between Maine and Canada, till we get to the Madawasca. We had be-

fore us a report from Gen. Wool, while this treaty was in negotiation, in which that intelligent officer declares, that it is perfectly idle to think of fortifying any point east of this road. It is a mountain region, through which no army can possibly pass into Canada. And, sir, this avenue to Canada, this practicable avenue, and only practicable avenue east of that by way of Lake Champlain, is left now just as it was found by the treaty. The treaty does not touch it, nor in any manner affect it at all.

But I must go farther. I said that the Treaty of Washington was a treaty of equivalents, in which it was expected that each party should give something and receive something. And I am now willing to meet any gentleman, be he a military man or not, who will make the assertion that, in a military point of view, the greatest advantages derived from that treaty were on the side of Great Britain. It was on this point that I wished to say something in reply to an honorable member from New York, (Mr. DICKINSON,) who will have it that in this treaty, England supposes that she got the advantage of us. Sir, I do not think the military advantages she obtained by it are worth a rush. But even if they were—if she had obtained advantages of the greatest value—would it not have been fair in the member from New York to state, nevertheless, whether there were not equivalent military advantages obtained, on our side, in other parts of the line? Would it not have been candid and proper in him, when adverting to the military advantage obtained by England, in a communication between New Brunswick and Canada, if such advantages there were, to have stated, on the other hand, and at the same time, the regaining by us of Rouse's Point, at the outlet of Lake Champlain?—an advantage which overbalanced all others, forty times told. I must be allowed to say, that I certainly never expected that a member from New York, above all other men, should speak of this treaty as conferring military advantages on Great Britain, without full equivalents. I listened to it, I confess, with utter astonishment. A distinguished member from that State, (Mr. WRIGHT,) saw, at the time, very clearly the advantage gained by this treaty to the United States and to New York. He voted willingly for its ratification, and he never will say that Great Britain obtained a balance of advantages in a military point of view.

Why, how is the State of New York affected by this treaty? Sir, is

not Rouse's Point perfectly well known, and admitted, by every military man, to be the key of Lake Champlain? It commands every vessel passing up or down the lake, between New York and Canada. It had always been supposed that this point lay some distance south of the parallel of 45, which was our boundary line with Canada, and, therefore, was within the United States; and, under this supposition, the United States purchased the land, and commenced the erection of a strong fortress. But a more accurate survey having been made in 1818, by astronomers on both sides, it was found that the parallel of 45 ran south of this fortress, and thus Rouse's Point, with the fort upon it, was found to be in the British dominions. This discovery created, as well it might, a great sensation here. None knows this better than the honorable member from South Carolina, (Mr. CALHOUN,) who was then at the head of the Department of War. As Rouse's Point was no longer ours, we sent our engineers to examine the shores of the lake, to find some other place or places which we might fortify. They made a report, on their return, saying, that there were two other points, some distance south of Rouse's Point, one called Windmill Point, on the east side of the lake, and the other called Stoney Point, on the west side, which it became necessary now to fortify, and they gave an estimate of the probable expense. When this treaty was in process of negotiation, we called for the opinion of military men respecting the value of Rouse's Point, in order to see whether it was highly desirable to obtain it. We had their report before us, in which it was stated, that the natural and best point for the defence of the outlet of Lake Champlain was Rouse's Point. In fact, any body might see that this was the case who would look at the map. The point projects into the narrowest passage by which the waters of the lake pass into the Richelieu. Any vessel, passing into or out of the lake, must come within point blank range of the guns of a fortress erected on this point; and it ran out so far that any such vessel must approach the fort, head on, for several miles, so as to be exposed to a raking fire from the battery, before she could possibly bring her broadside to bear upon the fort at all. It was very different with the points farther south. Between them the passage was much wider; so much so, indeed, that a vessel might pass directly between the two, and not be in reach of point blank shot from either.

Mr. DICKINSON, of New York, here interposed to ask a question. Did not the Dutch line give us Rouse's Point?

Mr. W. Certainly not. It gave us a little semi-circular line, running round the fort, but not including what we had possessed before. And besides, we had rejected the Dutch line, and the whole point now clearly belonged to England. It was all within the British territory. Does the gentleman understand me now?

Mr. DICKINSON. Oh yes, I understand you now, and I understood you before.

Mr. W. I am glad he does. [A laugh.] I was saying that a vessel might pass between the two points, Windmill point and Stony point, and escape point blanc shot from either. Meanwhile her broadside could be brought to bear upon either of them. The forts would be entirely independent of each other, and, having no communication, could not render each other the least assistance in case of attack. But the military men told us, there was no sort of question, that Rouse's Point was extremely desirable as a point of military defence. This is plain enough, and I need not spend time to prove it. Of one thing I am certain, that the true road to Canada is by the way of Lake Champlain. That is the old path. I take to myself the credit of having said here, thirty years ago, speaking of the mode of taking Canada, that when an American woodsman undertakes to fell a tree, he does not begin by lopping off the branches, but strikes his axe at once into the trunk. The trunk, in relation to Canada, is Montreal, and the river St. Lawrence down to Quebec; and so we found in the last war. It is not my purpose to scan the propriety of military measures then adopted, but I suppose it to have been rather accidental and unfortunate, that we began the attack in Upper Canada. It would have been better military policy, as I suppose, to have pushed our whole force by the way of Lake Champlain, and made a direct movement on Montreal; and, though we might thereby have lost the glories of the battles of the Thames, and of Lundy's Lane, and of the Sortie from Fort Erie, yet we should have won other laurels of equal, and perhaps greater, value at Montreal. Once successful in this movement, the whole country above would have fallen into our power. Is not this evident to every gentleman? Now Rouse's Point is the best means of defending both the ingress into the lake, and the exit from it. And I say now, that

on the whole frontier of the State of New York, with the single exception of the narrows below the city, there is not a point of equal importance. I hope this Government will last forever, but if it does not, and if, in the judgment of Heaven, so great a calamity shall befal us as the rupture of this Union, and the State of New York shall thereby be thrown upon her own defences, I ask is there a single point, except the narrows, the possession of which she will so much desire? No—there is not one. And how did we obtain this advantage for her? The parallel of 45 north was established by the treaty of '83 as our boundary with Canada in that part of the line. But, as I have stated, that line was found to run south of Rouse's Point. And how did we get back this precious possession? By running a little semi-circle like that of the Dutch King? No; we went back to the old line, which had always been supposed to be the true line, and the establishment of which gave us not only Rouse's Point, but a strip of land containing some thirty or forty thousand acres between the parallel of 45 and the old line.

The same arrangement gave us a similar advantage in Vermont; and I have never heard that the constituents of my friend near me, (Mr. PHELPS,) made any complaint of the treaty. That State got about sixty or seventy thousand acres, including several villages, which would otherwise have been left on the British side of the line. We received Rouse's Point, and this additional land, as one of the equivalents for the cession of territory made in Maine. And what did we do for New Hampshire? There was an ancient dispute as to which was the northwesternmost head of the Connecticut river. Several streams were found, either of which might be insisted on as the true boundary. But we claimed that called Hall's stream. This had not formerly been allowed; the Dutch award did not give to New Hampshire what she claimed; and Mr. Van Ness, our commissioner, appointed under the treaty of Ghent, after examining the ground, came to the conclusion that we were not entitled to Hall's stream. I thought that we were so entitled, although I admit that Hall's stream does not join the Connecticut river till after it has passed the parallel of 45. By the treaty of Washington this demand was agreed to, and it gave New Hampshire one hundred thousand acres of land. I do not say that we obtained this wrongfully; but I do say that we got that which Mr. Van Ness had doubted our

right to. I thought the claim just, however, and the line was established accordingly. And here let me say once for all, that if we had gone for arbitration, we should inevitably have lost what the treaty gave to Vermont and New York; because all that was clear matter of cession, and not adjustment of doubtful boundary.

I think that I ought now to relieve the Senate from any further remarks on this northeastern boundary. I say that it was a favorable arrangement, both to Maine and Massachusetts, and that nine-tenths of their people are well satisfied with it; and I say also, that it was advantageous to New Hampshire, Vermont, and New York. And I say, further, that it gave up no important military point, but, on the contrary, obtained one of the greatest consequence and value. And here I leave that part of the case for the consideration of the Senate and of the country.

[Here the Senate adjourned.]

APRIL 7, 1846.

Mr. WEBSTER resumed. Yesterday I read an extract from the proceedings in the British Parliament of a despatch of Lord Palmerston to Mr. Fox, in which Lord Palmerston says, that the British Government, as early as 1840, had perceived that they never could come to a settlement of this controversy with the government of Mr. Van Buren. I do not wish to say whether the fault was more on one side than the other; but I wish to bar, in the first place, any inference of an improper character which may be drawn from that statement of the British secretary of foreign affairs. It was not, that they looked forward to a change which should bring gentlemen into power more pliable, more agreeable to the purposes of England. No, sir, those remarks of Lord Palmerston, whether true or false, were not caused by any peculiar stoutness or stiffness which Mr. Van Buren had ever maintained on our side of the merits of the question. The merits of the boundary question were never discussed by Mr. Van Buren to any extent. The thing that his Administration discussed was the formation of a convention of exploration and arbitration to settle the question. A few years before this despatch of Lord Palmerston to Mr. Fox, the two Governments, as I have repeatedly said, had agreed how the question should be settled. They had agreed that there should be an exploration. Mr. Van Buren had proposed and urged arbitration also. England had

agreed tothis, at his request. The Governments had agreed to these two principles, therefore, long before the date of that letter of Lord Palmerston; and from that agreement, till near the close of Mr. Van Buren's administration, the whole correspondence turned on the arrangement of details of a convention for arbitration, according to the stipulation of the parties. Therefore, it was not on account of any notion that Mr. Van Buren stood up for American questions better than others. It was because these subordinate questions respecting the convention for arbitration had got into so much complexity—so embarrassed with projects and counter projects—had become so difficult and entangled; and because every effort to disentangle them had made the matter worse. On this account alone Lord Palmerston had made the remarks. I wish to draw no inference that would be injurious to others, to make no imputation on Mr. Van Buren. But it is necessary to remember, that this dispute had run on for years, and was likely to run on forever, though the main principles had already been agreed on, viz: exploration and arbitration. It was an endless discussion of details, and forms of proceeding, in which the parties receded farther and farther from each other every day.

One thing more, sir, by way of explanation. I referred yesterday to the report made by Gen. Wool in respect to the road from Kennebec. In point of fact, the place which Gen. Wool recommended in 1838, to be fortified, was a few miles farther east, towards the waters of the Penobscot river, than Arnold's route; but, generally, the remark I made was perfectly true, that east of that line there has not been a road or passage. The honorable member from New York yesterday produced extracts from certain debates in Parliament respecting the importance of the territory ceded to England in a military point of view. I beg to refer to some others which I hold in my hand, but which I shall not read—the speeches of Sir Charles Napier, Lord Palmerston, Sir Howard Douglass, &c., as an offset to those quoted by the honorable member. But I do not think it of importance to balance those opinions against each other. Some gentlemen appear to entertain one set of opinions, some another; and, for my own part, I candidly admit that by both, one and the other, facts are overstated. I do not believe, sir, that any thing, in a military point of view, ceded by us to England, is of any consequence to us or to her; or that any thing important, in

that respect, was ceded by either party, except one thing—that is Rouse's Point. I do believe it was an object of importance to repossess ourselves of the site of that fortress, and to that point I shall proceed to make a few remarks that escaped me yesterday. I do not complain here that the member from New York has underrated the importance of that acquisition. He has not spoken of it. But what I do complain of—if complaint it may be called—is, that when he spoke of cessions made to England by the treaty of Washington, a treaty which proposed to proceed on the ground of mutual concessions, equivalents, and considerations—when referring to such a treaty to show the concessions made to England, he did not consider it necessary to state, on the other hand, the corresponding cessions made by England to us. And I say again, that the cession of Rouse's Point by her, must be, and is considered by those best capable of appreciating its value, of more importance than all the cessions we made to England in a military point; and to show how our Government have regarded its importance, let me remind you, that immediately on the close of the last war, although the country was heavily in debt, there was nothing to which the Government addressed itself with more zeal than to fortify this point, as the natural defence of Lake Champlain. As early as 1816, the Government paid twenty or thirty thousand dollars for the site, and went on with the work at an expense of one hundred thousand dollars. But in 1818, the astronomers, appointed on both sides, found it was on the English side of the boundary. That, of course, terminated our operations. But that is not all. How did our Government regard the acquisition by the treaty of Washington? Why the ink with which that treaty was signed was hardly dry, when the most eminent engineers were despatched to that place, who examined its strength and proceeded to renew and rebuild it. And no military work—not even the fortifications for the defence of the Narrows, approaching the harbor of New York, has been proceeded with by the Government with more zeal. Having said so much, sir, I will merely add, that if gentlemen desire to obtain more information on this important subject, they may consult the head of the engineer corps, Col. Totten, and Commodore Morris, who went there by instructions to examine it, and who reported thereon.

And here, sir, I conclude my remarks on the question of the Northeastern Boundary.

And I now leave it to the country to say, whether this question, this troublesome, and annoying, and dangerous question, which had lasted through the ordinary length of two generations, having now been taken up, in 1841, was not well settled, and promptly settled? Whether it was not well settled for Maine and Massachusetts, and well settled for the whole country? And whether, in the opinion of all fair and candid men, the complaint about it which we hear at this day, does not arise entirely from a desire that those connected with the accomplishment of a measure so important to the peace of the country should not be allowed to derive too much credit from it?

Mr. President, the destruction of the steamboat "Caroline," in the harbor of Schlosser, by a British force, in December, 1837, and the arrest of Alexander McLeod, a British subject, composing part of that force, four years afterwards, by the authorities of New York, and his trial for an alleged murder committed by him on that occasion, have been subjects of remark, here and elsewhere, at this session of Congress. They are connected subjects, and call, in the first place, for a brief historical narrative.

In the year 1837 a civil commotion, or rebellion, which had broken out in Canada, had been suppressed, and many persons engaged in it had fled to the United States. In the autumn of that year these persons, associating with themselves many persons of lawless character in the United States, made actual war on Canada, and took possession of Navy Island, belonging to England, in the Niagara river. It may be the safest course to give an account of these occurrences from official sources. Mr. Van Buren thus recites the facts, as the Government of the United States understood them, in his message of December, 1838:

"I had hoped that the respect for the laws and regard for the peace and honor of their own country, which has ever characterized the citizens of the United States, would have prevented any portion of them from using any means to promote insurrection in the territory of a power with which we are at peace, and with which the United States are desirous of maintaining the most friendly relations. I regret deeply, however, to be obliged to inform you that this has not been the case.

"Information has been given to me, derived from official and other sources, that many citizens of the United States have associated together to make hostile incursions from our territory into Canada, and to aid and abet insurrection there, in violation of the obligations and laws of the United States, and in open disregard of their own duties as citizens. This information has been in part confirmed, by a hostile invasion actually made by citizens of the United States, in conjunction with Canadians and others, and

accompanied by a forcible seizure of the property of our citizens, and an application thereof to the prosecution of military operations against the authorities and people of Canada. The results of these criminal assaults upon the peace and order of a neighboring country have been, as was to be expected, fatally destructive to the misguided or deluded persons engaged in them, and highly injurious to those in whose behalf they are professed to have been undertaken. The authorities in Canada, from intelligence received of such intended movements among our citizens, have felt themselves obliged to take precautionary measures against them, have actually embodied the militia, and assumed an attitude to repel an invasion, to which they believed the colonies were exposed from the United States. A state of feeling on both sides of the frontier had thus been produced, which called for prompt and vigorous interference."

The following is the British account of the same occurrence:

"In this state of things, a small band of Canadian refugees, who had taken shelter in the State of New York, formed a league with a number of the citizens of the United States for the purpose of invading the British territory, not to join a party engaged in civil war, because civil war at that time in Canada there was none, but in order to commit, within the British territory, the crimes of robbery, arson, and murder.

"By a neglect on the part of that government, (N. Y.,) which seems to admit of but one explanation, the storehouses which contained the arms and ammunition of the State were left unguarded, and were consequently broken open by this gang, who carried off thence in open day, and in the most public manner, cannon, and other implements of war.

"After some days' preparation, these people proceeded, without any interruption from the government or authorities of the State of New York, and under the command of an American citizen, to invade and occupy Navy Island, and part of the British territory; and, having engaged the steamboat Caroline, which, for their special service, was cut out of the ice, in which she had been enclosed in the port of Buffalo, they had used her for the purpose of bringing over to Navy Island, from the United States territory, men, arms, ammunition, stores, and provisions.

"The preparations made for this invasion of British territory by a band of men organized, armed, and equipped within the United States, and consisting partly of British subjects and partly of American citizens, had induced the British authorities to station a military force at Chippewa, to repel the threatened invasion, and to defend Her Majesty's territory. The commander of that fort, seeing that the Caroline was used as a means *of supply and reinforcement for the invaders*, who had occupied Navy Island, judged that the capture and destruction of that vessel would prevent supplies and reinforcements from passing over to the island, and would, moreover, deprive the force on the island of the means of passing over to the British territory on the main land."

According to the British account, the expedition sent to capture the Caroline expected to find her at Navy Island; but when the commanding officer came round the point of the island in the night he found that she was moored to the other shore. This did not deter him from making the capture. In that capture a citizen of the United States by the name of Durfree lost his life; the British authorities pretend, by a chance shot by one of his own party; the American, by a shot from one of the British party.

This transaction took place on the 29th of December, 1837, in the first year of Mr. Van Buren's Administration; and no sooner was it known here, and made the subject of a communication by Mr. Forsythe to Mr. Fox, than the latter avowed it, as an act done by the British authorities, and justified it, as a proper and necessary measure of self-defence. Observe, sir, if you please, that the Caroline was destroyed in December, 1837, and Mr. Fox's avowal of that destruction, as a Government act, and his justification of it, were made in January following, so soon as knowledge of the occurrence reached Washington. Now, sir, if the avowal of the British minister, made in the name of his Government, was a sufficiently authentic avowal, why, then, from that moment, the Government of Great Britain became responsible for the act, and the United States was to look to that Government for reparation or redress, or whatever act, or acknowledgment, or apology, the case called for. If Mr. Fox's letter was proper proof that the destruction of the Caroline was an act of public force, then the Government of Great Britain was directly responsible to the Government of the United States; and of the British Government directly, and the British Government only, was satisfaction to be demanded. Nothing was immediately done; the matter was suffered to lie, and grow cool; but it afterwards became a question, at what time the United States Government did first learn, by sufficient evidence and authority, that the British Government had avowed the destruction of the Caroline as its own act. Now, in the first place, there was the direct avowal of Mr. Fox made at the time, and never disapproved. This avowal, and the account of the transaction, reached London in February, 1838. Lord Palmerston thinks that, in conversations with Mr. Stevenson, not long subsequent, he intimated distinctly, that the destruction of the vessel would turn out to be justifiable. At all events, it is certain, that, on the 22d day of May, 1838, in an official note to Lord Palmerston, written by instructions from his Government, demanding reparation for her destruction, Mr. Stevenson did state, that the Government of the United States did consider that transaction as an outrage upon the United States, and a violation of United States territory, committed by British troops, planned and executed by the Lieutenant Governor of Upper Canada." It is clear, then, that the Government of the United States so understood the matter, when it

gave Mr. Stevenson the instructions, on which he made this demand. The administration knew, full well, that the expedition was a public expedition, set on foot by the authorities of Canada, avowed here, immediately, by Mr. Fox as an act for which the British Government took upon itself the responsibility, and never disavowed by that Government at any time or in any way.

And now, sir, why was this aggression on the territory of the United States, why was this indignity, suffered to remain unvindicated and unredressed, for three years? Why was no answer made, and none insisted on, to Mr. Stevenson's official and direct demand for reparation? The jealous guardians of national honor, so tenaciously alive to what took place in 1842, what opiate had drugged their patriotism for so many years? Whose fault was it that, up to 1841, the Government of Great Britain had been brought to no acknowledgment, no explanation, no apology? This long and unbroken slumber over public outrage and national indignity, who indulged in it? Nay, if the Government of the United States thought it had not sufficient evidence that the *outrage* was, as it had declared it to be itself, a public outrage, then it was a *private* outrage, the invasion of our territory, and the murder of an American citizen, without any justification, or pretence of justification; and had it not become high time that such an outrage was redressed?

Sir, there is no escape from this. The administration of Mr. Van Buren knew perfectly well that the destruction of the Caroline was an act of public force, done by the British authorities in Canada. They knew it had never been disavowed at home. The act was a wrongful one on the part of the Canadian forces. They had no right to invade the territory of the United States. It was an aggression for which satisfaction was due, and should have been insisted on immediately, and insisted on perseveringly. But this was not done. The administration slept, and slept on, and would have slept till this time, if it had not been waked by the arrest of McLeod. Being on this side of the line, and making foolish and false boasts of his martial achievements, McLeod was arrested in November, 1840, on a charge for the murder of Durfree, in capturing the Caroline, and committed to prison by the authorities of New York. He was bailed; but violence and mobs overawed the courts, and he was recommitted to jail. This was an important and very exciting occurrence. Mr. Fox made a

demand for his immediate release. The administration of Mr. Van Buren roused itself, and looked round to ascertain its position. Mr. Fox again asserted, that the destruction of the Caroline was an act of public force, done by public authority, and avowed by the English Government, as the American Government had long before known. To this Mr. Forsythe replied, in a note of December 26, 1840, thus: "If the destruction of the Caroline was a public act of persons in Her Majesty's service, obeying the order of their superior authorities, this fact has not been before communicated to the Government of the United States by a person authorized to make the admission." Certainly, Mr. President, it is not easy to reconcile this language with the instructions, under which Mr. Stevenson made his demand, of May, 1838, and which demand he accompanied with the declaration, that the act was planned and executed by the authorities of Canada. Whether the act of the Governor had or had not been approved at home, the Government of the United States, one would think, could hardly need to be informed, in 1840, that that act was committed by persons in Her Majesty's service, obeying the order of their superior authorities. Mr. Forsythe adds, very properly, that it will be for the courts to decide on the validity of the defence. It is worthy of remark that, in this letter of December 26, 1840, Mr. Forsythe complains, that up to that day the Government of the United States had not become acquainted with the views and intentions of the Government of England respecting the destruction of the Caroline! Now, Mr. President, this was the state of things in the winter of 1840, '41, and on the 4th of March, 1841, when Gen. Wm. H. Harrison became President of the United States.

On the 12th of that same month of March, Mr. Fox wrote to the Department of State a letter, in which, after referring to his original correspondence with Mr. Forsythe, in which he had avowed and justified the capture of the Caroline as an act of necessary defence, he proceeds to say:

"The undersigned is directed, in the first place, to make known to the Government of the U. S., that Her Majesty's Government entirely approve of the course pursued by the undersigned in that correspondence, and of the language adopted by him in the official letters above mentioned.

"And the undersigned is now instructed again to demand from the Government of the United States, formally, in the name of the British Government, the immediate release of Mr. Alexander McLeod.

"The grounds upon which the British Government make this demand upon the Government of the U. S. are these: That the transaction, on account of which Mr. McLeod has been arrested and is to be put upon his trial, was a transaction of a public character, planned and executed by persons duly empowered by Her Majesty's colonial authorities to take any steps, and do any acts, which might be necessary for the defence of Her Majesty's territories, and for the protection of Her Majesty's subjects; and that, consequently, those subjects of Her Majesty, who engaged in that transaction, were performing an act of public duty for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country.

"The transaction may have been, as Her Majesty's Government are of opinion that it was, a justifiable employment of force for the purpose of defending the British territory from the unprovoked attack of a band of British rebels and American pirates, who, having been permitted to arm and organize themselves within the territory of the U. S., had actually invaded and occupied a portion of the territory of Her Majesty; or it may have been, as alleged by Mr. Forsythe in his note to the undersigned of the 26th of December, 'a most unjustifiable invasion, in time of peace, of the territory of the U. S.' But it is a question essentially of a political and international kind, which can be discussed and settled only between the two Governments, and which the courts of justice of the State of New York cannot by possibility have any means of judging, or any right of deciding."

The British Government insisted that it must have been known, and was well known, long before, that it had avowed and justified the capture of the Caroline, and taken upon itself the responsibility. Mr. Forsythe, as you have seen, sir, in his note of December 26th, had said, that fact had not been before communicated by a person authorized to make the admission. Well, sir, then, what was now to be done? Here was a new, fresh, and direct avowal of the act by the British Government, and a formal demand for McLeod's immediate release. And how did Gen. Harrison's administration treat this? Sir, just as it ought to have treated it. It was not poor and mean enough in its intercourse with a foreign Government, to make any reflections on its predecessor, or appear to strike out a new path for itself. It did not seek to derogate, in the slightest degree, from the propriety of what had been said and done by Mr. Van Buren and Mr. Forsythe, whatever eminent example it might have found, for such a course of conduct. No; it rather adopted what Mr. Forsythe had said in December, to wit, that at that time no authentic avowal had been communicated to the United States. But now an avowal had been made, on the authority of the Government itself; and Gen. Harrison acted, and rightly acted, on the case made by this avowal. And what opinions did he form, and what course did he pursue, in a cri-

sis, and in regard to transactions, so intimately connected with the peace and honor of the country?

Sir, in the first place, Gen. Harrison was of opinion, that the entering of the U. S. territory, by British troops, for the purpose of capturing or destroying the Caroline, was unjustifiable. That it was an aggression, a violation of the territory of the United States. Not that the British forces might not have destroyed that vessel, if they could have found her on their own side of the line; for she was unlawfully employed—she was assisting to make war on Canada. But she could not be followed into a port of the United States, and there captured. This was an offence to the dignity and sovereignty of this Government, for which apology and satisfaction ought long since to have been obtained, and which apology and satisfaction it was not yet too late to demand. This was Gen. Harrison's opinion.

In the next place, and on the other hand, Gen. Harrison was of opinion, that the arrest and detention of McLeod were contrary to the law of nations. McLeod was a soldier, acting under the authority of his Government, and obeying orders which he was bound to obey. It was absurd to say, that a soldier, who must obey orders or be shot, may still be hanged if he does obey them. Was Gen. Harrison to turn aside, from facing the British lion, and fall on a lamb? Was he to quail before the crown of England, and take vengeance on a private soldier? No, sir, that was not in character for Wm. H. Harrison. He held the British Government responsible; he died, to the great grief of his country, but in the time of his successor that responsibility was justly appealed to, and satisfactorily fulfilled.

Mr. Fox's letter, written under instructions from Lord Palmerston, was a little peremptory, and some expressions were regarded as not quite courteous and conciliatory. This caused some hesitation; but Gen. Harrison said that he would not cavil at phrases, since, in the main, the British complaint was well founded, and we ought at once to do what we could to place ourselves right.

Sir, the members of the administration were all of one mind on this occasion. Gen. Harrison, himself a man of large general reading and long experience, was decidedly of opinion that McLeod could not be lawfully holden to answer, in the courts of New York, for what had been done by him, as a soldier, under superior orders. All the members of the Administration were of the same opinion, without

doubt or hesitation. I may, without impropriety, say, that Mr. Crittenden, Mr. Ewing, Mr. Bell, Mr. Badger, and Mr. Granger were not all likely to come to an erroneous conclusion, on this question of public law, after they had given it full consideration and examination.

Mr. Fox's letter was answered; and from that answer I will read an extract:

"Mr. Fox informs the Government of the United States that he is instructed to make known to it that the Government of Her Majesty entirely approve the course pursued by him in his correspondence with Mr. Forsythe in December last, and the language adopted by him on that occasion; and that the Government have instructed him 'again to demand from the Government of the United States, formally, in the name of the British Government, the immediate release of Mr. Alexander McLeod;' that 'the grounds upon which the British Government make this demand upon the Government of the United States are these: That the transaction on account of which Mr. McLeod has been arrested, and is to be put upon his trial, was a transaction of a public character, planned and executed by persons duly empowered by Her Majesty's colonial authorities to take any steps and to do any acts which might be necessary for the defence of Her Majesty's territories, and for the protection of Her Majesty's subjects; and that, consequently, those subjects of Her Majesty who engaged in that transaction were performing an act of public duty, for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country.

"The President is not certain that he understands precisely the meaning intended by Her Majesty's Government to be conveyed by the foregoing instruction.

"This doubt has occasioned with the President some hesitation; but he inclines to take it for granted that the main purpose of the instruction was to cause it to be signified to the Government of the United States that the attack on the steamboat 'Caroline' was an act of public force, done by the British colonial authorities, and fully recognised by the Queen's Government at home; and that, consequently, no individual concerned in that transaction can, according to the just principles of the laws of nations, be held personally answerable, in the ordinary courts of law, as for a private offence; and that, upon this avowal of Her Majesty's Government, Alexander McLeod, now imprisoned on an indictment for murder, alleged to have been committed in that attack, ought to be released by such proceedings as are usual and are suitable to the case.

"The President adopted the conclusion, that nothing more than this could have been intended to be expressed, from the consideration that Her Majesty's Government must be fully aware that, in the United States, as in England, persons confined under judicial process can be released from that confinement only by judicial process. In neither country, as the undersigned supposes, can the arm of the Executive power interfere, directly or forcibly, to release or deliver the prisoner. His discharge must be sought in a manner conformable to the principles of law and the proceedings of courts of judicature. If any indictment like that which has been found against Alexander McLeod, and under circumstances like those which belong to his case, were pending against an individual in one of the courts of England, there is no doubt that the law officer of the crown might enter a nolle prosequi, or that the prisoner might cause himself to be brought up on habeas corpus and discharged, if his ground of discharge should be adjudged sufficient,

or that he might prove the same facts, and insist on the same defence or exemption on his trial.

"All these are legal modes of proceeding, well known to the laws and practice of both countries. But the undersigned does not suppose that, if such a case were to arise in England, the power of the Executive Government could be exerted in any more direct manner.

"Even in the case of ambassadors and other public ministers, whose right to exemption from arrest is personal, requiring no fact to be ascertained but the mere fact of diplomatic character, and to arrest whom is sometimes made a highly penal offence, if the arrest be actually made, it must be discharged by application to the courts of law.

"It is understood that Alexander McLeod is holden, as well on civil as on criminal process, for acts alleged to have been done by him in the attack on the 'Caroline,' and his defence or ground of acquittal must be the same in both cases. And this strongly illustrates, as the undersigned conceives, the propriety of the foregoing observations; since it is quite clear that the Executive Government cannot interfere to arrest a civil suit between private parties in any stage of its progress, but that such suit must go on to its regular judicial termination. If, therefore, any course different from such as have been now mentioned was in contemplation of Her Majesty's Government, something would seem to have been expected from the Government of the United States as little conformable to the laws and usages of the English Government as to those of the United States, and to which this Government cannot accede.

"The Government of the United States, therefore, acting upon the presumption which is already adopted, that nothing extraordinary or unusual was expected or requested of it, decided, on the reception of Mr. Fox's note, to take such measures as the occasion and its own duty appeared to require.

"In his note to Mr. Fox of the 26th of December last, Mr. Forsythe, the Secretary of State of the United States, observes, that, 'if the destruction of the Caroline was a public act of persons in Her Majesty's service, obeying the order of their superior authorities, this fact has not been before communicated to the Government of the United States by a person authorized to make the admission; and it will be for the court, which has taken cognizance of the offence with which Mr. McLeod is charged, to decide upon its validity when legally established before it;' and adds: 'The President deems this a proper occasion to remind the Government of Her Britannic Majesty that the case of the Caroline has been long since brought to the attention of Her Majesty's principal Secretary of State for Foreign Affairs, who, up to this day, has not communicated its decision thereupon. It is hoped that the Government of Her Majesty will perceive the importance of no longer leaving the Government of the United States uninformed of its views and intentions upon a subject which has naturally produced much exasperation, and which has led to such grave consequences.'

"The communication of the fact that the destruction of the 'Caroline' was an act of public force by the British authorities being formally communicated to the Government of the United States by Mr. Fox's note, the case assumes a different aspect.

"The Government of the United States entertains no doubt that, after this avowal of the transaction as a public transaction, authorized and undertaken by the British authorities, individuals concerned in it ought not, by the principles of public law and the general usage of civilized States, to be holden personally responsible in the ordinary tribunals of law for their participation in it. And the President presumes that it can hardly be necessary to say that the American people, not distrustful of their ability to

redress public wrongs by public means, cannot desire the punishment of individuals when the act complained of is declared to have been the act of the Government itself.

"Soon after the date of Mr. Fox's note an instruction was given to the Attorney General of the United States from this Department, by direction of the President, which fully sets forth the opinions of this Government on the subject of Mr. McLeod's imprisonment; a copy of which instruction the undersigned has the honor herewith to enclose.

"The indictment against McLeod is pending in a State court; but his rights, whatever they may be, are no less safe, it is to be presumed, than if he were holden to answer in one of this Government.

"He demands immunity from personal responsibility by virtue of the law of nations; and that law, in civilized States, is to be respected in all courts. None is either so high or so low as to escape from its authority in cases to which its rules and principles apply."

And now, sir, who will deny that this decision was entirely correct? Who will deny that this arrest of McLeod, and this threatening to hang him, was just cause of offence to the British Government? Sir, what should we have thought ourselves, in a like case? If United States troops, by the lawful authority of their Government, were ordered to pass over the line of boundary, for any purpose—retaliation, reprisal, fresh pursuit of an enemy, or any thing else—and the government of the territory invaded, not bringing our Government to account, but sleeping three years over the affront, should then snatch up one of our citizens found in its jurisdiction, and who had been one of the force, and proceed to try, condemn, and execute him, sir, would not the whole country have risen up like one man? Should we have submitted to it for a moment? Suppose that now, by order of the President, and in conformity to law, an American army should enter Canada, or Oregon, for any purpose which the Government of the United States thought just, and was ready to defend, and the British Government, turning away from demanding responsibility or satisfaction from us, should seize an individual soldier, try him, convict him, and execute him, sir, should we not declare war at once, or make war? Would this be submitted to for a moment? Is there a man, with an American heart in his bosom, who would keep still, and be silent, in the face of such an outrage on public law, and such an insult to the flag and sovereignty of his country? Who would endure, that an American soldier, acting in obedience to lawful authority, and with the eagle and the stars and stripes over his head, should be arrested, tried, and executed as a private murderer? Sir, if we had received such an insult, and atone-

ment had not been instantly made, we should have avenged it at any expense of treasure and of blood. A manly feeling of honor and character, therefore, a sense of justice, and respect for the opinion of the civilized world, a conviction of what would have been our own conduct, in a like case, all called on General Harrison to do exactly what he did.

England had assumed her proper responsibility, and what was it? She had made an aggression upon the United States by entering her territory for a belligerent purpose. She had invaded the sanctity of our territorial rights. As to the mere destruction of the vessel, if perpetrated on the Canadian side, it would have been quite justifiable. The persons engaged in that vessel were, it is to be remembered, violating the laws of their own country, as well as the law of nations; some of them suffered for that offence, and I wish all had suffered.

Mr. ALLEN here desired to know where the proof was of the fact that the Caroline was so engaged? Was there any record of the fact?

Mr. WEBSTER. Yes; there is proof—abundant proof. The fact that the vessel was so engaged was, I believe, pretty well proved on the trial and conviction of Van Rensselaer. But, besides, there is abundant proof in the Department of State, in the evidence taken in Canada by the authorities there, and sent to Great Britain, and which could be confirmed by any body who lived any where from Buffalo down to Schlosser. It was proved by the *rès gestæ*. What was the condition and conduct of the Caroline? Mr. Stevenson, making the best case he could for the United States, said that she was cleared out at Buffalo, in the latter part of December, to ply between Buffalo and Schlosser, on the same side of the river a few miles below. Lord Palmerston, with his usual sarcasm, and with more than a usual occasion for the application of that sarcasm, said, "It was very true she was cleared out; but Mr. Stevenson forgot that she was also "cut out" of the ice in which she had been laid up for the winter; and that in departing from Buffalo, instead of going down to Schlosser, she went down to Navy Island;" and his lordship asked, "What new outbreak of traffic made it necessary to have a steamboat plying, in the depth of winter, between Buffalo and Schlosser, when exactly between those two places on the shore there was a very convenient railroad?" I will most respectfully suggest all this to the considera-

tion of the chairman of the Committee on Foreign Relations. And, as further evidence, I will state the entire omission of the Government of the United States, during the whole of Mr. Van Buren's administration, to make any demand for reparation for the property destroyed. So far as I remember, such a suggestion was never made. But one thing I do very well remember, and that is, that a person who had some interest in the property came to the city of Washington, and thought of making an application to the Government, in the time of Mr. Van Buren, for indemnity.

Well, he was told that the sooner he shut his mouth on that subject the better, for he himself, knowing that the purpose to which the vessel was to be applied, came within the purview of the statutes of the United States against fitting out hostile expeditions against countries with which the United States were at peace, was liable to prosecution; and he, ever afterwards, profiting by this friendly admonition, held his peace. That was another piece of evidence which I respectfully submit to the consideration of the Chairman of the Committee on Foreign Relations.

Well, sir, McLeod's case went on in the court of New York, and I was utterly surprised at the decision of that court on the *habeas corpus*. On the peril and at the risk of my professional reputation, I now say, that the opinion of the court of New York, in that case, is not a respectable opinion, either on account of the result at which it arrives, or the reasoning on which it proceeds.*

McLeod was tried and acquitted; there being no proof that he had killed Durfree. Congress afterwards passed an act, that, if such cases should arise hereafter, they should be immediately transferred to the courts of the United States. That was a necessary and a proper law. It was requisite, in order to enable the Government of the United States to maintain the peace of the country. And it was perfectly constitutional; because it is a just and important principle, quite a fundamental principle, indeed, that the judicial power of the General Go-

* This opinion has been ably and learnedly reviewed by Judge Tallmadge, of the Superior Court of the city of New York. Of this review, the late Chief Justice Spencer says: "It refutes and overthrows the opinion most amply." Chancellor Kent says of it: "It is conclusive upon every point. I should have been proud if I had been the author of it." The opinion of the Supreme Court of New York is not likely to be received, at home or abroad, as the American understanding of an important principle of public law.

vernment should be co-extensive with its legislative and executive powers. When the authority and duty of this Government is to be judicially discussed and decided, that decision must be in the courts of the United States, or else that which holds the Government together would become a band of straw. McLeod having been acquitted, put an end to all question concerning his case; and Congress having passed a law providing for such cases in future, it only remained that a proper explanation and apology—all that a nation of high honor could ask, or a nation of high honor could give—should be obtained for the violation of territorial sovereignty; and that was obtained. Not obtained in Mr. Van Buren's time, but obtained, concurrently with the settlement of other questions, in 1842. Appendix V.

Before Mr. Fox's letter was answered, sir, the President had directed the Attorney General to proceed to New York, with copies of the official correspondence, and with instructions to signify to the Governor of New York the judgment which had been formed here.* These instructions have been referred to, and they are public. The moment was critical. A mob had arrested judicial proceedings on the frontier. The trial of McLeod was expected to come on immediately at Lockport; and what would be the fate of the prisoner, between the opinions entertained inside of the court-house, and lawless violence without, no one could foresee. The instructions were in the spirit of the answer to Mr. Fox's letter. And I now call on the member from New York to furnish authority for his charge, made in his speech the other day, that the Government of the United States had "interfered, directly and palpably," with the proceedings of the courts of New York. It is untrue. He has no authority, not a particle, for any such statement. All that was done was made public. He has no other authority for what he said than the public papers; they do not bear him out. To say, on the ground of what is public, that the Government of the United States interfered, "directly and palpably," with the proceedings in New York, is not only untrue, but ridiculous. There was no demand for the delivery of McLeod to the United States; there was no attempt to arrest the proceedings of the New York court. Mr. Fox was told that these proceedings must go on, until they were judicially termi-

*Vide Appendix VI.

nated; that McLeod was in confinement, by judicial process, and could only be released by judicial process under the same authority. All this is plainly stated in Mr. Crittenden's instructions, and no man, who reads that paper, can fall into any mistake about it. There was no "direct and palpable" interference with the New York courts, nor any interference at all. The Governor of New York did not think there was, nor did any body else ever think there was.

Mr. President, the honorable Senator from Ohio, (Mr. ALLEN,) bestowed, I believe, a very considerable degree of attention upon topics connected with the treaty of Washington. It so happened that my engagements did not permit me to be in the Senate during the delivery of any considerable portion of that speech. I was in occasionally, however, and heard some parts of it. I have not been able to find any particular account of the honorable member's remarks. In the only printed speech which I have been able to lay my hands on, it is said that he took occasion to speak, in general terms, of various topics—enumerating them—embraced in the treaty of 1842. As I have not seen those remarks, I shall not now undertake to make any further allusion to them. If I should happen to see them hereafter, so far as I may believe that they have not been answered by what I have already said, or may now say, I may, perhaps, deem it worth while to embrace some opportunity of taking such notice of them as to me they may seem to require.

Mr. ALLEN. I will now state, for the satisfaction of the Senator, the general substance of what I said on the subject. If he so desires, I will now proceed to do so.

Mr. WEBSTER. I think that, upon the whole, when the gentleman shall furnish the public with a copy of his speech, I may, perhaps, have a more proper opportunity to pay attention to it, especially as I have to say something of other speeches, which may at present occupy as much of the time of the Senate as can well be devoted to this subject. And now, sir, *paulo majora canamus*.

An honorable member from New York nearest the chair (Mr. DICKINSON) made a speech on this subject. I propose to take some notice of that speech. But first I must remark, that the honorable gentleman did not seem to be satisfied with his own light; he borrowed somewhat extensively. He borrowed, and incorporated into his speech, by way of a note, what he entitles, "*Extracts from*

the speech of Mr. C. J. Ingersoll, in the House of Representatives." Well, then, my first business is to examine a little this jewel which the honorable gentleman chooses to work into his own diadem; and I shall do it unmoved in temper, I hope, and at the same time I do not mean to omit what I may consider a proper notice of the whole of it, and all its parts. And here, sir, is that extraordinary ebullition, called by the honorable Senator "the speech of Mr. C. J. Ingersoll, in the House of Representatives."

Mr. President, I almost wish I could find myself out of order in referring to it, as I imagine I should be, if it had not been that the honorable member has made it his own and a part of his speech. I should be very glad to be compelled not to take any notice of it—to be told that I was not at liberty to know that such a speech was ever made; and should thank God to know that such an ebullition had never been made out of a bar-room anywhere—and that's a theatre quite too high for it. Now, sir, a large portion of this "speech" seems to be directed against the individual now addressing the Senate. I will read its parts and parcels, and take such notice of them as they deserve as I go along. Hear what the New York member says:

Mr. DICKINSON had understood there was a correspondence between the authorities at Washington and the Governor of New York to that effect; but he particularly alluded to a letter addressed by Mr. Webster, Secretary of State, to Mr. Crittenden, Attorney General, at that time, directing him to proceed to New York, and take charge of the trial of McLeod. He had it not then before him, and did not recollect its precise language, but would refer to it before he should close. He would endeavor to speak of the history of the past truly, and in perfect kindness, but he wished to show what we had gained by negotiations with Great Britain, and who had made the concessions."

Now, sir, either by way of giving interest to this narrative—or something else—the gentleman from New York makes this a little more distinct. He says not only that Mr. WEBSTER wrote this letter to the Governor of New York, with his own hand, but that he sent it by express. I believe the "express" matter was expressly by the gentleman from New York.

Mr. DICKINSON. Will you allow me?

Mr. WEBSTER. Oh! yes, I will allow you.

Mr. DICKINSON. The gentleman from New York is not at all responsible for the statement in the note. Nor does the gentleman from New York make the extracts from Mr. INGERSOLL's speech any part of his; on the contrary, I stated expressly, at the time, that I

alluded to it as a very extraordinary statement. Having met with the emphatic contradiction of the honorable Senator from Massachusetts, or what implied contradiction, I proposed to read in justification the remarks of Mr. INGERSOLL. The friends of the Senator in his immediate vicinity objected to have it read. I did not read the extract, nor was it in the report of my speech, which, in the usual way, found its way to the newspapers. But, as I had repeated calls for what I had alluded to as spoken by Mr. INGERSOLL, I did append, in the pamphlet edition of my speech, those remarks. I gave them as they were found in the newspaper, and therefore the Senator from New York neither added to, nor diminished, these remarks. I wish to set the Senator right as to this single matter of fact.

Mr. WEBSTER. I have only to state the fact that the additional falsehood in the speech of Mr. Ingersoll, as published by the member from New York, is not to be found in the published report.

Mr. DICKINSON. In what paper?

Mr. WEBSTER. In the National Intelligencer, as corrected by Mr. Ingersoll himself; and so it would appear that if not inserted by the member from New York, there is one falsehood in the case which the original author was not so graceless as to retain. But I go on with this speech:

"Out of this controversy arose the arrest of Alexander McLeod. What he intended to state now, consisted of facts not yet generally known, but which would soon be made known, for they were in progress of publication, and he had received them in no confidence, from the best authority. When McLeod was arrested, General Harrison had just died, and Mr. Tyler was not yet at home as his successor. Mr. Webster—who was *de facto* the administration—Mr. Webster wrote to the governor of New York, with his own hand, a letter, and sent it by express, marked "private," in which the governor was told that he must release McLeod, or see the magnificent commercial emporium laid in ashes. The brilliant description given by the gentleman from Virginia of the prospective destruction of that city in the case of a war, was, in a measure, anticipated on this occasion. McLeod must be released, said the Secretary of State, or New York must be laid in ashes. The governor asked when this would be done? The reply was *forthwith*. Do you not see coming on the waves of the sea the Paixhan guns? and if McLeod be not released, New York will be destroyed. But, said the governor, the power of pardon is vested in me, and even if he be convicted, he may be pardoned. Oh, no, said the Secretary, if you even try him, you will bring destruction on yourselves."

Well, now, sir, I say that a series of more direct, unalloyed falsehoods—absolute, unqualified, entire—never appeared in any publication in Christendom. Every allegation here made—every one, would

entirely justify the use of that expressive monosyllable, which some people are base enough and low enough to deserve to have thrown in their teeth, but which a gentleman does not often like to utter. Every one of them, from beginning to end, is false. There is not a particle of truth in them—there is not the slightest foundation for any one of these assertions. "Mr. Webster wrote a private letter," saying that the "Commercial Emporium would be laid in ashes!" "Paixhan guns!" False, sir—all false. I never said or wrote such a thing in my life to the Governor of the State of New York. "McLeod must be released." It is false. I never said any such thing. "New York must be laid in ashes." It is false. I said or wrote no such thing. "The governor asked when this was to be done?" What does this mean? Why, it implies that the governor of New York wrote to me a letter, in answer to mine, inquiring when New York was to be "laid in ashes," and the reply was, "forthwith." And here we have this—Mr. Ingersoll himself preparing this speech for the press, italicising the word *forthwith*, as if I had written another letter to the Governor of New York, "telling him" that New York was to be laid in ashes "*forthwith*." "But, said the Governor, the power of pardon is vested in me, and if he be convicted he may be pardoned." Here is another letter—a third letter to me! "Oh! no, said the secretary"—why, here I am writing a *fourth* letter?—"if you even try him you will bring destruction upon yourselves." This is stated by a man, or a thing, that has a seat in one of the houses of Congress. I promised to keep my temper, and I will. The whole concern is infinitely contemptible, and cannot disturb the temper of a reasonable man. But I will expose it, and let the country see it. Such, then, are the contents of the letters which this person describes as "facts not generally known, but which would soon be made known, for they were in progress of publication, and he had received them in confidence from the best authority." Well, I do not know where he got his "authority," unless, as suggested by a friend near me, it was from some chapters of his own recent work! But let me state what did occur, and prepare the minds of the Senate for some degree of astonishment, that any man in the world could tell such a story as this.

When McLeod was arrested, there was a good deal of conversation in Washington and elsewhere about what would happen. It was

a subject of very considerable conversation, and certainly of embarrassment to the Government. It was hoped and expected by me, and I believe by the President and other gentlemen, that the Governor of New York would see that it was a case in which, if he were invested with authority, by the constitution and the laws of the State, he would recommend the entering of a *nolle pros.* by the prosecuting officer of the State of New York. It was expected that he would do that, and Gen. Harrison one day said to me, that he had received a letter from a friend, in which he was informed that the Governor of New York had made up his mind to take that course, and that he was very glad of it, as it relieved the Government. It was about the time that the Attorney General was to proceed to New York to see how the matter stood, or perhaps a day or two after he had left. The case was to be tried immediately, within ten days, at Lockport, in the western part of the State of New York. Having heard this, however, Gen. Harrison directed me to write a note of thanks to the Governor of New York, stating that he thought he had done exactly what was proper, and by so doing had relieved the Government from some embarrassment, and the country from some danger of collision with a foreign power. And that is every thing said in that letter, or any other letter written by me to the Governor of the State of New York, marked private. The letter is here if any one wishes to see it, or to hear it read.

Mr. CRITTENDEN here suggested that the letter should be read.

Mr. WEBSTER. Very well. Here it is, I will read it.

(Private.) DEPARTMENT OF STATE, Washington, March 11, 1841.

MY DEAR SIR: The President has learned, not directly, but by means of a letter from a friend, that you had expressed a disposition to direct a *nolle prosequi* in the case of the indictment against McLeod, on being informed by this Government that the British Government has officially avowed the attack on the Caroline as an act done by its own authority. The President directs me to express his thanks for the promptitude with which you appear disposed to perform an act, which he supposes proper for the occasion, and which is calculated to relieve this Government from embarrassment, and the country from some danger of collision with a foreign power.

You will have seen Mr. Crittenden, whom I take this occasion to commend to your kindest regard.

I have the honor to be, yours, truly,

DANIEL WEBSTER.

His Excellency WM. H. SEWARD, *Governor of New York.*

Mr. MANGUM. Was that the only letter written?

Mr. WEBSTER. Yes, the only letter; the only private letter ever written by me to the Governor of New York in the world. Now, how am I to treat such allegations? It is the falsehood "with circumstance." A general statement might pass unregarded; but here he quotes what he calls "the highest authority." He states particulars. He gives all possible plausible marks of credit to the falsehood. How am I to treat it? Why, sir, I pronounce it an utter, an absolute falsehood, in all its parts, from beginning to end. Now, I do not wish to use epithets, nor to call names. But I hold up this picture, which I have painted faintly, but truly; I hold it up to every man in the Senate and in the country, and I ask him to look at it, and then write at the bottom of it any thing which he thinks it most resembles.

The speech proceeds: "The next step taken by the Administration was to appoint a district attorney, who was to be charged with the defence of Alexander McLeod—the gentleman who was lately removed from office—and a fee of five thousand dollars was put into his hands for this purpose." False, sir—false every way. The Government of the United States had no more to do with the employment of Mr. Spencer for the defence of McLeod than had the Government of France. Here [taking up the corrected report of Mr. I.'s speech, in the Intelligencer]—here he says that, "enlightened by the gentleman from New York, he found he was mistaken on this point." "Mistaken!" No more mistaken than he was in any of his other allegations. "Mistaken!" No man who makes such statements is entitled to shelter himself under any notion of mistake. His declaration in this particular is no more false, nor any less false, than is the declaration that the Government of the United States appointed an attorney, or charged their attorney with the defence of McLeod. They never interfered in the slightest degree. It is true, they furnished to Mr. Spencer, as they would have furnished to any other counsel, the official correspondence, to prove that the Government of Great Britain avowed the act of the destruction of the Caroline as their own. "Application was afterwards made to the chief justice of the State of New York for the release of McLeod. The judge did not think proper to grant the application. The marshal was about to let him go, when he was told that he must do it at his peril; and that if McLeod went out of prison, he should go in." I do not

know what the marshal had to do with the case. McLeod was in prison under the authority of the State of New York. I do not know how it was possible that the marshal, an officer of the United States—could interfere.

But there are some other matters in the speech to which I must refer. "He would call on the honorable member from Massachusetts (Mr. ADAMS) to sustain him in what he was about to say." I do not find that the honorable member from Massachusetts has yet sustained him in these statements, and I rather think he never will. He asserts that I wrote to the Committee on Foreign Affairs of the House on that subject, asking an outfit and a salary for a special minister to England to settle the Oregon question. It is a falsehood, as I believe. I never wrote such a letter, to the best of my recollection. "These are facts," he says, "which no one will dispute." I dispute them. I say I have no recollection of them at all. I do not believe Mr. ADAMS has any recollection of any such note being written by me. If I had written such a note, I think I should have remembered it. Well, now, this person next proceeds to a topic no way connected with what he had been discussing. [Here Mr. W. read an extract from the speech of Mr. Ingersoll, charging him (Mr. W.) with offering to give Oregon for free trade with England, in a speech made at a public dinner, in Baltimore, May, 1843.] Here by me, sits a Senator from Maryland, (Mr. JOHNSON,) who was present at that dinner, and heard that speech, and if I wanted a witness beyond my own statement and printed speech, I could readily call upon him. In that speech, I did not mention Oregon, nor allude to Oregon in the remotest degree. It is an utter falsehood. There can be no mistake about it. The author of this speech (Mr. Ingersoll) was not there. If he knew anything about it, he must have acquired his knowledge from the printed speech; but in that there was not the slightest reference to Oregon—this is another statement, therefore, just as false as all the rest. Why, sir, hydrostatic pressure has no means of condensing anything into such a narrow compass as the author of this speech condenses falsehood. All steam-power does not equal it. What does he say here? Why, that my speech at Baltimore contained a strong recommendation of a commercial treaty with England. Why, sir, a commercial treaty with England to regulate the subjects upon which I was talking at Balti-

more—the duties laid on goods by the two countries—was just the thing that I did *not* recommend, and which I there declared the treaty-making power had no right to make—no authority to make. He would represent me as holding out the idea, that the power of laying duties for revenue was a power that could be freely exercised by the President and Senate, as part of the treaty-making power! Why, I hope that I know more of the Constitution than that. The ground I took was just the reverse of that—exactly the reverse. Sir, my correspondence, public and private, with England, at that time led me to anticipate, before long, some change in the policy of England with respect to certain articles, the produce of this country—some change with respect to the policy of the corn-laws. And I suggested in that speech how very important it would be, if things should so turn out, as that that great product of ours—the Indian corn—of which we raised five times as much as we do of wheat; principally the product of the West and Southwest—especially of the State of Tennessee, which raised annually I do not know how many millions—I suggested, I say, the great good fortune that would happen, if an arrangement could be made by which that article of human food could be freely imported into England. And I said that, in the spirit that prevailed, and which I knew prevailed—I knew that the topic had been discussed in England—if an arrangement could be made in some proper manner to produce such a result, it would be a piece of great good fortune. But, then, did I not immediately proceed to say, that that could not be done by treaty? I used the word "arrangement"—studiously used it—to avoid the conclusion that it could be done by treaty. I will read what I said:

"But with regard to the direct intercourse between us and England great interest is excited, many wishes expressed, and strong opinions entertained in favor of an attempt to settle duties on certain articles by treaty or arrangement. I say, gentlemen, by 'arrangement,' and I use that term by design. The Constitution of the United States leaves with Congress the great business of laying duties to support the Government. It has made it the duty of the House of Representatives, the popular branch of the Government, to take the lead on such subjects. There have been some few cases in which treaties have been entered into, having the effect to limit duties; but it is not necessary—and that is an important part of the whole subject—it is not necessary to go upon the idea that if we come to an understanding with foreign governments upon rates of duties, that understanding can be effected only by means of a treaty ratified by the President and two-thirds of the Senate, according to the form of the Constitution."

* * * * * *

"It is true a treaty is the law of the land. But, then, as the whole business of reve-

nue and general provision for all the wants of the country is undoubtedly a very peculiar business of the House of Representatives or of Congress, I am of opinion, and always have been, that there should be no encroachment upon that power by the exercise of the treaty-making power, unless in case of great and evident necessity."

There have been some cases of necessity, like that of France in the case of Louisiana. And yet he says that in this speech, in which Oregon was not mentioned at all, in which I repudiated altogether the levying of revenue by the treaty-making power, that I recommended a treaty with England in this very speech for the purpose of laying duties. Sir, I grow weary, weary with this tissue of falsehoods. Why should I allude to representations and imputations so groundless? And yet, sir, there is one thing in the speech from which I will supplicate its author to have me excused. He says, he never agreed with me in politics. That is true. We never did, and I think we never shall agree. He said, many years ago, that if he had lived in the time of the Revolution, he should have been a tory. I don't think I should. He has said, also, very recently, in a printed book of his, that the Declaration of Independence was carried with difficulty, if not by accident. That is his estimate of the great charter of our national existence. We should never agree in politics I admit. But he said, "Mr. Webster is a man of talents." Here I beg to be excused. I can bear his abuse, but if he undertakes my commendation I begin to tremble for my reputation.

Sir, it would be natural to ask, what can account for all this apparent malice? Sir, I am not certain there is any malice in it. I think it proceeds rather from a moral obtuseness, a native want of discrimination between truth and falsehood; or that if there ever was a glimmering perception of that kind, a long discipline in that sublime school of morality, which teaches that "all's fair in politics," appears to have completely obscured it.

Hear him further on the dismemberment of Massachusetts: "By this treaty," he said, "the good old Bay State, which he loved with filial reverence, was disintegrated, torn asunder." "Massachusetts torn asunder!" Sir, Massachusetts owned one-half of certain wild lands in Maine. By the Treaty of Washington, she parted with these lands, at their just value, and by this she is represented as disintegrating herself, tearing herself asunder! Can absurdity go farther? But the best, or the worst, of all is, that the author of this

speech loves the old Bay State with filial reverence! *He* love Massachusetts! *He, he* love the Bay State! If he loves Massachusetts, he is like the luckless swain, who

> "Grieves for friendship unreturned,
> "Or unregarded love."

I can tell him, sir, that Massachusetts and all her people, of all classes, hold him, and his love, and his veneration, and his speeches, and his principles, and his standard of truth, and his value of truth, in utter—what shall I say?—any thing but respect.

Sir, this person's mind is so grotesque, so *bizarre*—it is rather the caricature of a mind, than a mind. When we see a man of some knowledge, and some talent, who is yet incapable of producing any thing true, or useful, we sometimes apply to him a phrase borrowed from the mechanics. We say, there is a screw loose, somewhere. In this case, the screws are loose all over. The whole machine is out of order, disjointed, ricketty, crazy, creaking, as often upside down as upside up; as often hurting as helping those who use it, and generally incapable of any thing, but bungling and mischief.

Mr. President, I will now take some further notice of what has been said by the member from New York, (Mr. DICKINSON.) I exceedingly regret—truly and unfeignedly regret—that the observations of the gentleman make it my duty to take some notice of them. Our acquaintance is but short, but it has not been unpleasant. I always thought him a man of courteous manners and kind feelings, but it cannot be expected I shall sit here and listen to statements such as the honorable member has made on this question, and not answer them. I repeat, it gives me great pain to take notice of the gentleman's speech. This controversy is not mine; all can bear witness to that. I have not undertaken to advance, of my own accord, a single word about the treaty of Washington. I am forced, driven to it; and, sir, when I am driven to the wall, I mean to stand up and make battle, even against the most formidable odds. What I find fault with is, that throughout his speech, the honorable member continually makes the remark that he is true to the history of the past; he wishes to tell the truth, that he is making a search after truth, and yet makes, in fact, so much misstatement. If this be a specimen of the honorable Senator's researches after truth, a collection of his researches would be a very amusing compilation. If the honorable member, during

the relaxation from his duties here, would put his researches together, I undertake to say they would sell well. The Harpers would make half a fortune out of them. The people of the United States will pay well for what gives them a good hearty laugh; and it is no matter if that effect be produced, whether it be by a story by Dickens, by a caricature from Punch, or a volume of "researches after truth," by an honorable member from New York.

Now, sir, I propose to follow the honorable member a few steps in the course of his researches. I have already said that in two or three passages of his speech the gentleman expresses his strong desire to state the facts. [Here Mr. W. read a quotation from the speech of Mr. DICKINSON.] He says there are four things we have lost by the treaty of Washington. I do not readily find the passages, but the amount is, that we made a very important concession of territory to England under that treaty. Now, that treaty proposed to be a treaty of concession on both sides. The gentleman states concessions made by the United States, but entirely forgets, "in his researches after truth," to state those made on the other side. He takes no notice of the cession of Rouse's Point; or of a strip of land a hundred miles long, on the border of the State of New York. His notion of historical truth is, to state all on one side of the story, and forget all the rest. That is a system of research after truth which will hardly commend itself to the respect of most men. But, sir, what I wish principally to do now, is to turn to another part of this speech. I before gave the gentleman notice that I would call upon him for the authority upon which he made such a statement, as that an attempt was made at Washington by members of the Government to stop the course of justice; and now, if the gentleman is ready with the proofs, I would be glad to have them.

Mr. DICKINSON. I will reserve what I have to say until the gentleman has done, when I shall produce it to his satisfaction.

Mr. WEBSTER. I undertake to say, no authority will be produced, or is producible, that there were attempts made at Washington to interfere with the trial of McLeod. What occurred? It was suggested by the President to Governor Seward, that the President was gratified that he had come to the conclusion to enter a *nolle prosequi* in the case of McLeod. Was that a palpable interference with judicial authority? Was that a resistance of the ordinary process of law?

The Government of the United States had nothing at all to do with the trial of McLeod in the New York courts, except to see that he was furnished with the proof of facts necessary to show his defence. But I wish to know in what school the gentleman has been taught that if a man is in prison, and his counsel moves to have him brought up on the great writ of *habeas corpus*, that that is any resistance of judicial process in favor of the prisoner? I dare say the honorable gentleman among his authorities, can produce none to show such to be an interference. He may call what he likes a direct and palpable interference. He may apply the term to the journey of the Attorney General to Albany, or to any other act or occurrence. But that does not prove it so. I hold the gentleman responsible to prove that the Government did some act, or acts, which the common-sense of men holds to be a palpable and direct interference. I say there was none. He quotes the letter of instructions to the Attorney General. That proposes no interference. That letter says to the Attorney General, that if the case were pending in the courts of the United States, so that the President could have control over it, he would direct the prosecuting officer to enter a *nol. pros.*; but as it belonged entirely to the Governor of New York, it is referred to the Governor himself. That is the substance, in this respect, of the letter which the Attorney General carried to the Governor of New York, and there was not another act done by authority at Washington in reference to this matter, and I call upon the gentleman at his leisure to produce his authority for his statements. One word more in answer to the remarks the gentleman made this morning, and I shall leave him. The ebullition which I have been commenting upon, and which is as black and foul-mouthed as ever was ejected from any thing standing on two legs, was published a few days before the honorable member from New York made his speech. He referred to it, and stated a fact contained in it.

I was here in my seat and heard it, and I rose and told the honorable member it was an utter falsehood. He knew I denounced it as an absolute calumny. He saw on the face of that statement that, if it was true, it was utterly disgraceful to me. It was, he said, disgraceful to the country, what was done; and if it was disgraceful to the country, it must be so to me. I stated my denial of the truth of that speech of Mr. Ingersoll in the strongest terms—in the most

emphatic language. What then? The very next day he proceeded to read that speech in the Senate; but it was objected to, and was not read. But afterwards, as he tells us, he sent his own speech to press, and inserted this speech of Ingersoll, knowing that I had pronounced it a falsehood. Yes, miserable, calumnious, and scandalous as it was, he snatched at it eagerly, and put it in his own speech, and then circulated it to the full extent of his ability. I happened to come into this chamber one day when the Senate was not in session, and found our agents and messengers franking and directing that speech to all parts of New York; and I do not doubt that enough of it was sent by him into Broome county, and the adjacent counties, to fill a small barn; and pretty bad fodder it would be. And now I beg to know if that is friendly, candid, or just? Does any man think he can stand up here with the proper dignity of a Senator of the United States, and pursue such a course? He knew the speech he quoted was calumnious. He heard it pronounced utterly false.

Mr. DICKINSON. Only one single point in it was answered or denied by the Senator. That was, that the fee of the Attorney General was not paid by the Government of the United States. I referred to the statements because I had a right to do it, and thinking it was part of my duty.

Mr. WEBSTER. I do not say what a man has a right to do——

Mr. DICKINSON. As a matter of propriety, then——

Mr. WEBSTER. Well, I say it was not proper to do it. Suppose I had dragged out of a ditch some calumny on the gentleman which he denied, would it be proper in me to persist in it after that denial?

Mr. DICKINSON. The speech quoted was documentary matter, and I had a right and full liberty to lay such before the country.

Mr. WEBSTER. That is true of documentary history, but when did that speech become documentary history?

Mr. DICKINSON. It was considered so by me, because it was printed and went to the public from an official source.

Mr. WEBSTER. Indeed! So any falsehood, any vile calumny, that is raked up, no matter what it is, if printed, is "documentary history!" The gentleman's own speech, according to that, is already documentary history! Now, sir, I repeat again, that it has given me pain to be driven into this controversy—great pain; but I repeat also that if I am attacked here for any thing done in the course of my public

life, I shall defend myself. My public reputation, be it what it may, has been earned by thirty years service in these halls. It is dearer to me than life itself, and till life is extinct I will defend it.

I will now allude, Mr. President, as briefly as possible, to some other provisions of the Treaty of Washington. The article for the delivery of fugitives from justice has been assailed. It has been said that an innocent woman had been sent back to Scotland, under its provisions. Why, I believe the fact is, that a woman had murdered her husband, or some relative in Scotland, and fled to this country. She was pursued, demanded, and carried back, and from some defect in the ordinary regularity of evidence, or some such cause, which not unfrequently occurs in criminal trials, she was acquitted. But, sir, I undertake to say, that the article for the extradition of offenders, contained in the treaty of 1842, if there were nothing else in the treaty of any importance, has of itself been of more value to this country, and is of more value to the progress of civilization, the cause of humanity, and the good understanding between nations, than could be readily computed. What was the state and condition of this country, sir, on the borders and frontiers at the time of this treaty? Why, it was the time when the "patriot societies" or "Hunters' Lodges" were all in operation—when companies were formed and officers appointed by secret associations, to carry on the war in Canada; and as I have said already, the disturbances were so frequent and so threatening, that the United States Government despatched General Scott to the frontier to make a draught on New York for militia in order to preserve the peace of the border. And now, sir, what was it that repressed these disorders, and restored the peace of the border? Nothing, sir, nothing but a provision between the two Governments that if those "patriots" and "barn-burners" went from one side to the other to destroy their neighbors' property, trying to bring on a war all the time—for that was their object—they should be delivered up to be punished. As soon as that provision was agreed to, the disturbances ceased, on one side and on the other. They were heard of no more. In the formation of this clause of the treaty I had the advantage of consultation with a venerable friend near me, one of the members from Michigan, [Mr. WOODBRIDGE.] He pressed me not to forego the opportunity of introducing some such provision. He examined it; and I will ask him if he knows any other cause for the in-

stantaneous suppression of these border difficulties than this treaty provision?

Mr. WOODBRIDGE rose, and said, in reply, as follows:

Mr. President: I may not disregard the reference which the gentleman has done me the honor to make to me, in regard to the inconsiderable part which I deemed it my duty to take, in the matter alluded to. A brief statement of some facts which occurred, and a glance, simply, at the condition of that border country from which I come, will be all that the occasion seems to demand.

That part of Canada with which the people of Michigan are brought more immediately in contact, extends from the head of Lake Erie to Point Edwards at the lower extremity of Lake Theron; a distance of about 100 miles. Along this intermediate distance, the Straits of Detroit and of Sinclair, furnish every imaginable facility for the escape of fugitives. For their entire length, the shores of those Straits, on either side, exhibit lines of dense and continuous settlement. Their shores are lined, and their smooth surface covered with boats and vessels of all dimensions and descriptions—from the bark canoe, to the steamer of a thousand tons. If the perpetrator of crime can reach a bark canoe, or a light skiff, and detach himself from the shore, he may in a few minutes defy pursuit—for he will be within a foreign jurisdiction. In *such* a condition of things no society can be safe unless there be some power to reclaim fugitives from justice. While your colonial government existed there, and its executive administration, under the control of this National Government, was in the hands of my Hon. colleague, a conventional arrangement—informal undoubtedly in its character—was entered into by him with the authorities of Canada, sustained by local legislation on both sides—by which these evils were greatly lessened. When the present State government took the place of the territorial government, this arrangement of necessity ceased; and then, the evils alluded to were greatly aggravated, and became eminently dangerous. Shortly before the first session of Congress, at which I attended, after the inauguration of Gen. Harrison, a very aggravated case of crime occurred, and its perpetrators, as usual, escaped into Canada. It was made the subject of an official communication to the State legislature. And soon after my arrival here, I deemed it to be my duty to lay the

matter before the Secretary of State, with a view to the adoption of some appropriate convention with Great Britain.

The Hon. Senator—then Secretary of State—was pleased to receive the suggestion favorably; but suggested to me the expediency of obtaining, if practicable, the sense of the Senate on the subject. Accordingly, I afterwards introduced a resolution here, having that object in view, and it was referred to the consideration of the Committee on Foreign Relations—of which an Hon. Senator from Virginia, not now a member of the Senate, was chairman.

Mr. Rives expressed himself very decidedly in favor of the proposition. But, negotiations having been begun, or being about to commence with Lord Ashburton, it was not deemed expedient, I believe, that it should then be made matter of discussion in the Senate. I had not ceased to feel very earnest solicitude on the subject; and, as the negotiation approached its termination, Mr. Webster did me the honor to send to me the *project* of that article of the treaty which relates to the subject. He desired me to consider it and to exhibit it, confidentially perhaps, to such Senators as came from border States, for their consideration, and for such modification of its terms and scope as they might deem expedient. This I did. The form and scope of the article met, I believe, with the approbation of all to whom I showed it. Nor was any modification suggested, except perhaps one very immaterial one, suggested by an honorable Senator from New York. Of all this I advised Mr. Webster, and the project became afterwards an article of the treaty, with but little if any variation. I believe I can throw no more light on the subject, sir. But the honorable Senator, having intimated to me that, in his discussion of the subject, he *might, perhaps*, have occasion to refer to the part I took in the matter, I have provided myself with the copy of the message to the Legislature of Michigan, of which I had in the beginning made use, and which, in order to show the extent of the evil referred to, and the necessity which existed for some treaty stipulation on the subject, I ask the Secretary to read.*

*The Secretary here read an extract from Mr. Woodbridge, when Governor of Michigan, to the legislature of that State, calling its attention earnestly to the facilities which exist along the interior boundaries of the United States for the escape of fugitives from justice; and saying, that a very recent occurrence, of the most painful and atrocious character, had compelled his own attention to it, and recommending, in strong terms, that

(The extract having been read, Mr. W. then proceeded:) I have now only to add my entire and unqualified conviction, that no act of the legislative or treaty-making power that I have ever known, has ever been more successful in its operation than this article of the treaty; nor could any provision have been attended by more happy consequences upon the peace and safety of society in that remote frontier.

Mr. WEBSTER resumed. I am happy to find that, in its operation, the provision has satisfied those who felt an interest in its adoption. But I may now state, I suppose without offence and without cavil, that since the negotiation of this treaty, containing this article, we have negotiated treaties with other governments of Europe containing similar provisions, and that between other governments of Europe themselves, treaties have been negotiated containing that provision—a provision never before known to have existed in any of the treaties between European nations. I am happy to see, therefore, that it has proved itself to be useful to the citizens of the United States, for whose benefit it was devised and adopted; that it has proved itself worthy of favor and imitation in the judgment of the most enlightened nations of Europe; and that it has never been complained of by any body, except by murderers, and fugitives, and felons themselves.

Now, sir, comes the matter of the African squadron, to which I am induced to turn my attention for a moment, out of sincere respect to the member from Arkansas, [Mr. SEVIER,] who suggested the other day that to that article he had objection. There is no man whose opinions are more independent than those of that gentleman, and no one maintains them with more candor. But, if I understood him, he appears to think that that article gave up the right of search. What does he mean? We never claimed that right. We had no such right to give up; or does it mean exactly the opposite of what he says—that it yielded to England her claim of such right? No such thing. The arrangement made by this treaty was designed to carry into effect those stipulations in the treaty of Ghent which we thought binding on us, as well as to effect an object important to this

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the *peculiar* situation of Michigan, in this respect, should be laid before Congress, with a view of urging the expediency of some negotiation on the subject, between the United States and England.

country, to the interests of humanity, and to the general cause of civilization throughout the world, without raising the difficulty of the right of search. The object of it was to accomplish all that, in a way that should avoid the possibility of subjecting our vessels, under any pretence, to the right of search. I will not dwell on this. But allow me to state the sentiments on this subject of persons in the service of the United States abroad, whose opinions are entitled to respect. There is a letter sent to the Department of State by Mr. Wheaton, dated Berlin, November 15th, 1842. [Mr. W. read from this letter an extract expressive of the writer's approbation of this article of the treaty as particularly well adapted to the end proposed, and by which for the first time the policy of the United States in this respect might be said to have exercised a decided influence upon that of Europe. Appendix VII.]

I am quite willing, (said Mr. W.) to rest on this opinion of Mr. Wheaton, as to the propriety and safety, the security and the wisdom of the article in this treaty respecting the suppression of the African slave trade by a squadron of our own, against any little artillery that may be used against it here. I beg the gentleman's pardon, I did not allude to his opinion, I have for him the highest respect. I was thinking of what is said in some of these "documents." But I need not stop here. Upon the appearance of this treaty between the United States and England, the leading States of Europe did, in fact, alter their whole policy on this subject. The treaty of 1841 between the Five Powers had not been ratified by France. There was so much opposition to it in France, on the ground that it gave the right of search to the English cruisers, that the king and M. Guizot, though the treaty was negotiated according to their instructions, did not choose to ratify it. I have stated the cause of popular indignation against it. Well, what was done? I'll tell you. When this treaty of Washington became known in Europe, the wise men of the two countries, who wished to do all they could to suppress the African slave-trade, and to do it in a manner securing in the highest degree the immunity of the flag of either, and the supremacy of neither, agreed to abandon the quintuple treaty of 1841—the unratified treaty—they gave it up.

They adopted the treaty of Washington as their model; and I have now in my hand the convention between France and England, signed in

London on the 29th May, 1845, the articles of which, in respect to the manner of putting an end to the slave trade embody, exactly, the provisions contained in the treaty of Washington. Thus it is seen that France has borrowed, from the treaty stipulations between the United States and England, the mode of fulfilling her own duties and accomplishing her own purpose, in perfect accordance with the immunity of her flag. I need hardly say, sir, that France is the nation which was earliest, and has been most constantly wakeful, in her jealousy of the supremacy of the maritime power of England. She has kept her eye on it, steadily, for centuries. The immunity of flags is a deep principle; it is a sentiment—one may almost say it is a passion, with all the people of France. And France, jealous, quick of perception, thoroughly hostile to any extension of the right of maritime search or visit, under any pretences whatever, has seen, in the example of the treaty of Washington, a mode of fulfilling her duties, for the suppression of the African slave trade, without disturbing the most sensitive of all her fears.

Allow me, sir, to read the 8 and 9 articles of the treaty of Washington, and the 1st, 2d, and 3d articles of the convention between England and France. [Mr. W. read these articles, vide Appendix VIII.]

Mr. President, there is another topic on which I have to say a few words. It has been said that the treaty of Washington, and the negotiations accompanying it, leave the great and interesting question of impressment where they found it. With all humility and modesty, I must beg to express my dissent from that opinion. I must be permitted to say, that the correspondence connected with the negotiation of that treaty, although impressment was not in the treaty itself, has, in the judgment of the world, or at least of considerable and respectable persons in the world, been regarded as not having left the question of impressment where it found it, but as having advanced the true doctrine in opposition to it, to a higher and stronger foundation. The letter addressed on that subject from the Department of State, to the British plenipotentiary, and his answer, are among the papers. I only wish the letter to be read. It recites the general history of the question between England and the United States. Lord Ashburton had no authority to make stipulations on the subject; but that is a circumstance which I do not regret, because I do not deem the subject

as one at all proper for treaty stipulation. [Mr. W. here read extracts from the letter, and among others this:] (Appendix IX.)

"In the early disputes between the two Governments, on this so long contested topic, the distinguished person to whose hands were first intrusted the seals of this Department declared, that "the simplest rule will be, that the vessel being American shall be evidence that the seamen on board are such.

"Fifty years' experience, the utter failure of many negotiations, and a careful reconsideration now had of the whole subject, at a moment when the passions are laid, and no present interest or emergency exists to bias the judgment, have fully convinced this Government that this is not only the simplest and best, but the only rule which can be adopted and observed, consistently with the rights and honor of the United States, and the security of their citizens. That rule announces, therefore, what will hereafter be the principle maintained by their Government. IN EVERY REGULARLY DOCUMENTED AMERICAN MERCHANT VESSEL, THE CREW WHO NAVIGATE IT WILL FIND THEIR PROTECTION IN THE FLAG WHICH IS OVER THEM."

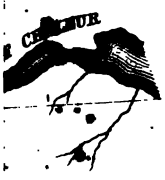
And then proceeded: This declaration will stand. Not on account of any particular ability displayed in the letter with which it concludes; still less on account of the name subscribed to it. But it will stand, because it announces the true principles of public law; because it announces the great doctrine of the equality and independence of nations upon the seas; and because it announces the determination of the Government and the people of the United States to uphold those principles, and to maintain that doctrine, through good report and through evil report, forever. We shall negotiate no more, nor attempt to negotiate more, about impressment. We shall not treat, hereafter, of its limitation to parallels of latitude and longitude. We shall not treat of its allowance, or disallowance, in broad seas, or narrow seas. We shall think no more of stipulating for exemption from its exercise, of some of the persons composing crews. Henceforth, the deck of every American vessel is inaccessible, for any such purpose. It is protected, guarded, defended, by the declaration which I have read, and that declaration will stand.

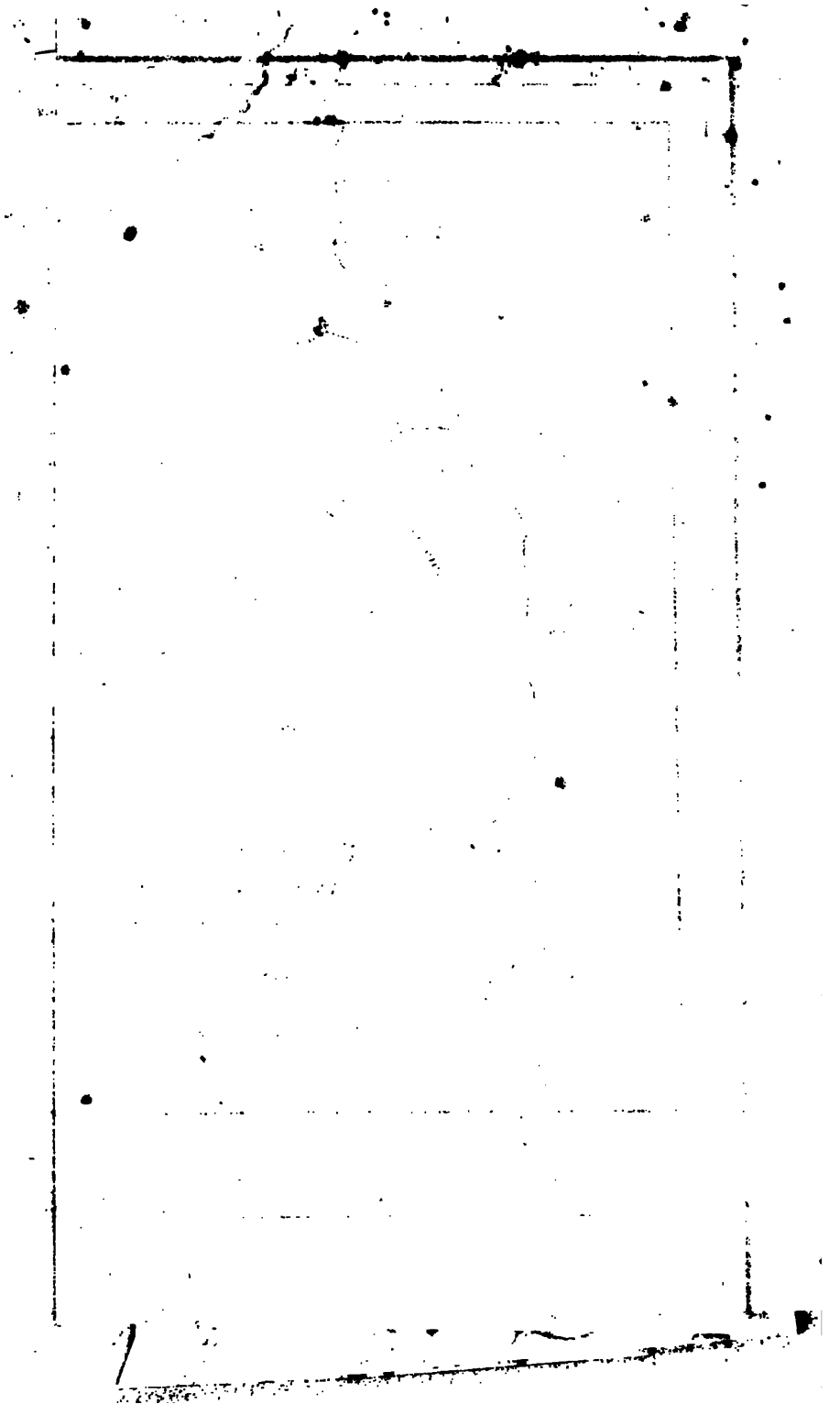
Sir, another most important question of maritime law, growing out of the case of the "Creole," and other similar cases, was the subject of a letter to the British plenipotentiary, and of an answer from him. An honorable member from South Carolina, (Mr. CALHOUN,) had taken, as is well known, a great interest in the matter involved in that question. He had expressed his opinion of its importance here, and had been sustained by the Senate. Occasion was taken of Lord Ashburton's mission to communicate, to him and to his Government,

the opinions which this Government entertained; and I would now ask the honorable member if any similar cause of complaint has since arisen. [Mr. CALHOUN said he had heard of none.] I trust, sir, that none will arise hereafter. I refer to the letter to Lord Ashburton on this subject, as containing what the American Government regarded as the true principle of the maritime law, and to his very sensible and proper answer.

Mr. President, I have reached the end of these remarks, and the completion of my purpose; and I am now ready, sir, to put the question to the Senate, and to the country, whether the northeastern boundary has not been fairly and satisfactorily settled; whether proper satisfaction and apology have not been obtained, for an aggression on the soil and territory of the United States; whether proper and safe stipulations have not been entered into, for the fulfilment of the duty of the Government, and for meeting the earnest desire of the people, in the suppression of the slave trade; whether, in pursuance of these stipulations, a degree of success, in the attainment of that object, has not been reached, wholly unknown before; whether crimes, disturbing the peace of nations, have not been suppressed; whether the safety of the southern coasting trade has not been secured; whether impressment has not been struck out from the list of contested questions among nations; and finally, and more than all, whether any thing has been done to tarnish the lustre of the American name and character?

Mr. President, my best services, like those of every other good citizen, are due to my country; and I submit them, and their results, in all humility, to her judgment. But standing here, to day, in the Senate of the United States, and speaking in behalf of the Administration of which I formed a part, and in behalf of the two Houses of Congress, who sustained that Administration, cordially and effectually, in every thing relating to this day's discussion, I am willing to appeal to the public men of the age, whether, in 1842, and in the city of Washington, something was not done for the suppression of crime, for the true exposition of the principles of public law, for the freedom and security of commerce on the ocean, and for the peace of the world?





APPENDIX

TO

MR. WEBSTER'S VINDICATION

OF THE

TREATY OF WASHINGTON.

APPENDIX.

I.

Mr. Everett to Mr. Webster.—[EXTRACTS.]

LEGATION OF THE UNITED STATES,
London, December 31, 1841.

* * * * * * * *

At a late hour on the evening of the 26th, I received a note from the Earl of Aberdeen, requesting an interview for the following day, when I met him at the Foreign Office, agreeably to the appointment. After one or two general remarks upon the difficulty of bringing about an adjustment of the points of controversy between the Governments, by a continuance of the discussions hitherto carried on, he said that Her Majesty's Government had determined to take a decisive step towards that end, by sending a special minister to the United States, with a full power to make a final settlement of all matters in dispute. * * * * * * * *

This step was determined on from a sincere and earnest desire to bring the matter so long in controversy to an amicable settlement; and if, as he did not doubt, the same disposition existed at Washington, he thought this step afforded the most favorable, and, indeed, the only means of carrying it into effect. In the choice of the individual for the mission, Lord Aberdeen added, that he had been mainly influenced by a desire to select a person who would be peculiarly acceptable in the United States, as well as eminently qualified for the trust, and that he persuaded himself he had found one who, in both respects, was all that could be wished. He then named Lord Ashburton, who had consented to undertake the mission.

Although this communication was of course wholly unexpected to me, I felt no hesitation in expressing the great satisfaction with which I received it. I assured Lord Aberdeen, that the President had nothing more at heart than an honorable adjustment of the matters in discussion between the two countries; that I was persuaded a more acceptable selection of a person for the important mission proposed could not have been made; and that I anticipated the happiest results from this overture.

Lord Aberdeen rejoined, that it was more than an *overture;* that Lord Ashburton would go with full powers to make a definitive arrangement on every point in discussion between the two countries. He was aware of the difficulty of some of them, particularly what had incorrectly been called the right of search, which he deemed the most difficult of all; but he was willing to confide this and all other matters in controversy to Lord Ashburton's discretion. He added, that they should have been quite willing to come to a general arrangement here, but they supposed I had not full powers for such a purpose.

This measure being determined on, Lord Aberdeen said he presumed it would be hardly worth while for us to continue the correspondence here, on matters in dispute between the Governments. He, of course, was quite willing to consider and reply to any statement I might think proper to make on any subject; but, pending the negotiations that might take place at Washington, he supposed no benefit could result from a simultaneous discussion here.

II.

Mr. Webster to Mr. Everett.—[EXTRACT.]

DEPARTMENT OF STATE,
Washington, January 29, 1842.

"The President has read Lord Aberdeen's note to you of the 20th of December, in reply to Mr. Stevenson's note to Lord Palmerston of the 21st of October, and thinks you were quite right in acknowledging the dispassionate tone of that paper. It is only by the exercise of calm reason that truth can be arrived at, in questions of a complicated nature; and between States, each of which understands and respects the intelligence and the power of the other, there ought to be no unwillingness to follow its guidance. At the present day, no State is so high as that the principles of its intercourse with other nations are above question, or its conduct above scrutiny. On the contrary, the whole civilized world, now vastly better informed on such subjects than in former ages, and alive and sensible to the principles adopted and the purposes avowed by the leading States, necessarily constitutes a tribunal, august in character and formidable in its decisions. And it is before this tribunal, and upon the rules of natural justice, moral propriety, the usages of modern times, and the prescriptions of public law, that Governments which respect themselves and respect their neighbors must be prepared to discuss, with candor and with dignity, any topics which may have caused differences to spring up between them.

"Your despatch of the 31st December announces the important intelligence of a special minister from England to the United States, with full powers to settle every matter in dispute between the two Governments; and the President directs me to say, that he regards this proceeding as originating in an entirely amicable spirit, and that it will be met, on his part, with perfectly corresponding sentiments. The high character of Lord Ashburton is well known to this Government; and it is not doubted that he will enter on the duties assigned him, not only with the advantages of much knowledge and experience in public affairs, but with a true desire to signalize his mission by assisting to place the peace of the two countries on a permanent basis. He will be received with the respect due to his own character, the character of the Government which sends him, and the high importance, to both countries, of the subjects intrusted to his negotiation.

"The President approves your conduct, in not pursuing, in England, the discussion of questions which are now to become the subjects of negotiation here."

III.

Mr. Webster to Gov. Fairfield.

DEPARTMENT OF STATE,
Washington, 11th April, 1842.

Your excellency is aware that, previous to March, 1841, a negotiation had been going on for some time between the Secretary of State of the United States, under the direction of the President, and the British minister accredited to this Government, having for its object the creation of a joint commission for settling the controversy respecting the northeastern boundary of the United States, with a provision for an ultimate reference to arbitrators, to be appointed by some of the sovereigns of Europe, in case an arbitration

should become necessary. On the leading features of a convention for this purpose the two Governments were agreed; but, on several matters of detail, the parties differed, and appear to have been interchanging their respective views and opinions, projects and counter-projects, without coming to a final arrangement, down to August, 1840. Various causes, not now necessary to be explained, arrested the progress of the negotiation at that time, and no considerable advance has since been made in it.

It seems to have been understood on both sides that, one arbitration having failed, it was the duty of the two parties to proceed to institute another, according to the spirit of the treaty of Ghent and other treaties; and the President has felt it to be his duty, unless some new course should be proposed, to cause the negotiation to be resumed, and pressed to its conclusion. But I have now to inform your excellency that Lord Ashburton, a minister plenipotentiary and special, has arrived at the seat of the Government of the United States, charged with full powers from his sovereign to negotiate and settle the different matters in discussion between the two Governments. I have further to state to you, that he has officially announced to this Department that, in regard to the boundary question, he has authority to treat for a conventional line, or line by agreement, on such terms and conditions, and with such mutual considerations and equivalents, as may be thought just and equitable, and that he is ready to enter upon a negotiation for such conventional line, so soon as this Government shall say it is authorized and ready, on its part, to commence such negotiation.

Under these circumstances, the President has felt it to be his duty to call the serious attention of the Governments of Maine and Massachusetts to the subject, and to submit to those Governments the propriety of their co-operation, to a certain extent, and in a certain form, in an endeavor to terminate a controversy already of so long duration, and which seems very likely to be still considerably further protracted before the desired end of a final adjustment shall be attained, unless a shorter course of arriving at that end be adopted than such as has heretofore been pursued, and as the two Governments are still pursuing.

Yet, without the concurrence of the two States whose rights are more immediately concerned, both having an interest in the soil, and one of them in the jurisdiction and government, the duty of this Government will be to adopt no new course, but, in compliance with treaty stipulations, and in furtherance of what has already been done, to hasten the pending negotiations as fast as possible.

But the President thinks it a highly desirable object to prevent the delays necessarily incident to any settlement of the question by these means. Such delays are great and unavoidable. It has been found that an exploration and examination of the several lines constitute a work of three years. The existing commission for making such exploration, under the authority of the United States, has been occupied two summers, and a very considerable portion of the work remains still to be done. If a joint commission should be appointed, and should go through the same work, and the commissioners should disagree, as is very possible, and an arbitration on that account become indispensable, the arbitrators might find it necessary to make an exploration and survey themselves, or cause the same to be done by others of their own appointment. If to these causes, operating to postpone the final decision, be added the time necessary to appoint arbitrators, and for their preparation to leave Europe for the service, and the various retarding incidents always attending such operations, seven or eight years constitute perhaps the shortest period within which we can look for a final result. In the mean time, great expenses have been incurred, and further expenses cannot be avoided. It is well known that the

controversy has brought heavy charges upon Maine herself, to the remuneration or proper settlement of which she cannot be expected to be indifferent. The exploration by the Government of the United States has already cost a hundred thousand dollars, and the charge of another summer's work is in prospect. These facts may be sufficient to form a probable estimate of the whole expense likely to be incurred before the controversy can be settled by arbitration; and our experience admonishes us that even another arbitration might possibly fail.

The opinion of this Government upon the justice and validity of the American claim has been expressed at so many times, and in so many forms, that a repetition of that opinion is not necessary. But the subject is a subject in dispute. The Government has agreed to make it matter of reference and arbitration; and it must fulfil that agreement unless another mode for settling the controversy should be resorted to, with the hope of producing a speedier decision. The President proposes, then, that the Governments of Maine and Massachusetts should severally appoint a commissioner or commissioners, empowered to confer with the authorities of this Government upon a conventional line, or line by agreement, with its terms, conditions, considerations, and equivalents, with an understanding that no such line will be agreed upon without the assent of such commissioners.

This mode of proceeding, or some other which shall express assent beforehand, seems indispensable, if any negotiation for a conventional line is to be had; since, if happily a treaty should be the result of the negotiation, it can only be submitted to the Senate of the United States for ratification.

It is a subject of deep and sincere regret to the President, that the British plenipotentiary did not arrive in the country and make known his powers in time to have made this communication before the annual session of the Legislatures of the two States had been brought to a close. He perceives and laments the inconvenience which may be experienced from re-assembling those Legislatures. But the British mission is a special one; it does not supersede the resident mission of the British Government at Washington, and its stay in the United States is not expected to be long. In addition to these considerations, it is to be suggested that more than four months of the session of Congress have already passed, and it is highly desirable, if any treaty for a conventional line should be agreed on, it should be concluded before the session shall terminate, not only because of the necessity of the ratification of the Senate, but also because it is not impossible that measures may be thought advisable, or become important, which can only be accomplished by the authority of both Houses.

These considerations, in addition to the importance of the subject, and a firm conviction in the mind of the President that the interests of both countries, as well as the interests of the two States more immediately concerned, require a prompt effort to bring this dispute to an end, constrain him to express an earnest hope that your excellency will convene the Legislature of Maine, and submit the subject to its grave and candid deliberations. I am, &c.,

DANIEL WEBSTER.

His Excellency JOHN FAIRFIELD,
Governor of Maine.

IV.

Captain Talcott to Mr. Webster.

WASHINGTON, *July* 14, 1842.

SIR: The territory within the lines mentioned by you contains *eight hundred and ninety-three* square miles, equal to *five hundred and seventy-one thousand five hundred and twenty* acres. It is a long and narrow tract upon the mountains or highlands, the distance from Lake Pohenagamook to the Metjarmette portage being one hundred and ten miles. The territory is barren, and without timber of value, and I should estimate that nineteen parts out of twenty are unfit for cultivation. Along eighty miles of this territory the highlands throw up into irregular eminences, of different heights, and, though observing a general northeast and southwest direction, are not brought well into line. Some of the elevations are over three thousand feet above the sea.

The formation is primitive siliceous rock, with slate resting upon it, around the basis. Between the eminences are morasses and swamps, throughout which beds of moss of luxuriant growth rest on and cover the rocks and earth beneath. The growth is such as is usual in mountain regions on this continent, in high latitudes. On some of the ridges and eminences birch and maple are found; on others, spruce and fir; and, in the swamps, spruce intermixed with cedar; but the wood everywhere is insignificant, and of stinted growth. It will readily be seen, therefore, that for cultivation, or as capable of furnishing the means of human subsistence, the lands are of no value.

I am, sir, your obedient servant,

A. TALCOTT, *Commissioner.*

Hon. DANIEL WEBSTER, *Secretary of State.*

V.

Mr. Webster to Lord Ashburton.—[EXTRACT.]

DEPARTMENT OF STATE,
Washington, July 27, 1842.

The act of which the Government of the United States complains is not to be considered as justifiable or unjustifiable, as the question of the lawfulness or unlawfulness of the employment in which the "Caroline" was engaged may be decided the one way or the other. That act is of itself a wrong, and an offence to the sovereignty and dignity of the United States, being a violation of their soil and territory—a wrong for which, to this day, no atonement, or even apology, has been made by her majesty's Government. Your lordship cannot but be aware that self-respect, the consciousness of independence and national equality, and a sensitiveness to whatever may touch the honor of the country—a sensitiveness which this Government will ever feel and ever cultivate—make this a matter of high importance, and I must be allowed to ask for it your lordship's grave consideration.

I have the honor to be, my lord, your lordship's most obedient servant,

DANIEL WEBSTER.

LORD ASHBURTON, &c., &c., &c.

Lord Ashburton to Mr. Webster.—[EXTRACT]

WASHINGTON, *July* 28, 1842.

Although it is believed that a candid and impartial consideration of the whole history

of this unfortunate event will lead to the conclusion, that there were grounds of justification as strong as were ever presented in such cases, and above all, that no slight of the authority of the United States was ever intended; yet, it must be admitted, that there was in the hurried execution of this necessary service a violation of territory, and I am instructed to assure you that her Majesty's Government consider this as a most serious fact, and that far from thinking that an event of this kind should be lightly risked, they would unfeignedly deprecate its recurrence. Looking back to what passed at this distance of time, what is, perhaps, most to be regretted, is, that some explanation and apology for this occurrence was not immediately made; this, with a frank explanation of the necessity of the case might, and probably would, have prevented much of the exasperation, and of the subsequent complaints and recriminations to which it gave rise.

VI.

Instructions to Mr. Crittenden.

DEPARTMENT OF STATE,
WASHINGTON, *March 15th*, 1841.

SIR: Alexander McLeod, a Canadian subject of her Britannic Majesty, is now imprisoned at Lockport, in the State of New York, under an indictment for murder, alleged to have been committed by him in the attack on, and destruction of, the steamboat Caroline, at Schlosser, in that State, on the night of the 29th of December, 1837; and his trial is expected to take place at Lockport, on the 22d instant.

You are apprised of the correspondence which took place between Mr. Forsythe, late Secretary of State, and Mr. Fox, her Britannic Majesty's minister here, on this subject, in December last.

In his note to Mr. Fox, of the 26th of that month, Mr. Forsythe says: "If the destruction of the Caroline was a public act, of persons in her Majesty's service, obeying the order of their superior authorities, this fact has not been before communicated to the Government of the United States, by a person authorized to make the admission; and it will be for the court, which has taken cognizance of the offence with which Mr. McLeod is charged, to decide upon its validity when legally established before it.

The President deems this to be a proper occasion to remind the Government of her Britannic Majesty, that the case of the Caroline has been long since brought to the attention of her Majesty's principal Secretary of State for Foreign Affairs, who, up to this day, has not communicated its decision thereupon. It is hoped that the Goverment of her Majesty will perceive the importance of no longer leaving the Government of the United States uninformed of its views and intentions, upon a subject which has naturally produced much exasperation, and which has led to such grave consequences.

I have now to inform you that Mr. Fox has addressed a note to this department, under date of the 12th instant, in which, under the immediate instruction and direction of his Government, he demands, formally and officially, Mr. McLeod's release, on the ground that this transaction, on account of which he has been arrested and is to be put upon his trial, was of a public character, planned and executed by persons duly empowered by her Majesty's colonial authorities, to take any steps, and to do any acts, which might be necessary for the defence of her Majesty's territories, and for the protection of her Majesty's subjects; and that, consequently, those subjects of her Majesty who en-

gaged in that transaction were performing an act of public duty, for which they cannot be made personally and individually answerable to the laws and tribunals of any foreign country; and that her Majesty's Government has further directed Mr. Fox to make known to the United States, that her Majesty's Government entirely approved of the course pursued by Mr. Fox, and the language adopted by him in the correspondence above mentioned.

There is, therefore, now an authentic declaration on the part of the British Government, that the attack on the Caroline was an act of public force, done by military men, under the orders of their superiors, and is recognised as such by the Queen's Government. The importance of this declaration is not to be doubted, and the President is of opinion that it calls upon him for the performance of a high duty. That an individual forming part of a public force, and acting under the authority of his Government, is not to be held answerable as a private trespasser or malefactor, is a principle of public law, sanctioned by the usages of all civilized nations, and which the Government of the United States has no inclination to dispute. This has no connexion whatever with the question, whether, in this case, this attack on the Caroline was, as the British Government thinks it, a justifiable employment of force, for the purpose of defending the British territory from an unprovoked attack, or whether it was a most unjustifiable invasion, in time of peace, of the territory of the United States, as this Government has regarded it. The two questions are essentially different, and, while acknowledging that an individual may claim immunity from the consequences of acts done by him, by showing that he acted under national authority, this Government is not to be understood as changing the opinions which it has heretofore expressed in regard to the real nature of the transaction which resulted in the destruction of the Caroline. That subject it is not necessary for any purpose connected with this communication to discuss. The views of this Government in relation to it are known to that of England; and we are expecting the answer of that Government to the communication which has been made to it.

All that is intended to be said at present is, that since the attack on the Caroline is avowed as a national act which may justify reprisals, or even general war, if the Government of the United States, in the judgment which it shall form of the transaction and of its own duty, should see fit so to decide, yet that it raises a question entirely public and political—a question between independent nations—and that individuals connected in it cannot be arrested and tried before the ordinary tribunals, as for the violation of municipal law. If the attack on the Caroline was unjustifiable, as this Government has asserted, the law which has been violated is the law of nations; and the redress which is to be sought is the redress authorized, in such cases, by the provisions of that code.

You are well aware that the President has no power to arrest the proceeding in the civil and criminal courts of the State of New York. If this indictment were pending in one of the courts of the United States, I am directed to say that the President, upon the receipt of Mr. Fox's last communication, would have immediately directed a *nolle prosequi* to be entered.

Whether in this case the Governor of New York have that power, or, if he have, whether he would feel it his duty to exercise it, are points upon which we are not informed.

It is understood that Mr. McLeod is holden also on civil process, sued out against him by the owner of the Caroline. We suppose it very clear that the Executive of the State cannot interfere with such process; and, indeed, if such process were pending in the courts of the United States, the President could not arrest it. In such, and many

analogous cases, the party prosecuted, or sued, must avail himself of his exemption or defence, by judicial proceedings, either into the court into which he is called, or in some other court. But whether the process be criminal or civil, the fact of having acted under public authority, and in obedience to the orders of lawful superiors, must be regarded as a valid defence; otherwise, individuals would be holden responsible for injuries resulting from the acts of Government, and even from the operations of public war.

VII.

Mr. Wheaton to Mr. Webster.

BERLIN, *November* 15, 1842.

SIR: Your despatch No. 36, enclosing copy of the treaty recently concluded at Washington, between the United States and Great Britain, has just reached me. I beg leave to congratulate you, sir, on the happy termination of this arduous negotiation, in which the rights, honor, and interests of our country have been so successfully maintained. The arrangement it contains on the subject of the African slave trade is particularly satisfactory, as adapted to secure the end proposed by the only means consistent with our maritime rights. This arrangement has decided the course of the French Government in respect to this matter. Its ambassador in London notified to the conference of the five great powers the final determination of France not to ratify the treaty of December, 1841, and, at the same time, expressed her disposition to fulfil the stipulations of the separate treaties of 1831 and 1834, between her and Great Britain. The treaty of 1841, therefore, now subsists only between four of the great powers by whom it was originally concluded; and as three of these (Austria, Prussia, and Russia) are very little concerned in the navigation of the ocean and the trade in the African seas, and have, besides, taken precautions in the treaty itself to secure their commerce from interruption by the exercise of the right of search in other parts, this compact may now be considered as almost a dead letter.

The policy of the United States may consequently be said, on this occasion, perhaps for the first time, to have had a most decisive influence on that of Europe. This will probably more frequently occur hereafter; and it should be an encouragement to us to cultivate our maritime resources, and to strengthen our naval arm, by which alone we are known and felt among the nations of the earth.

VIII.

Washington Treaty.—[EXTRACT.]

ARTICLE VIII.—The parties mutually stipulate that each shall prepare, equip, and maintain in service, on the coast of Africa, a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries, for the suppression of the slave trade; the said squadrons to be independent of each other, but the two Governments stipulating nevertheless to give such orders to the officers commanding their respective forces as shall enable them most effectually to act in concert and co-operation, upon mutual consultation, as exigencies may arise, for

the attainment of the true object of this article; copies of all such orders to be communicated by each Government to the other respectively.

ARTICLE IX. Whereas, notwithstanding all efforts which may be made on the coast of Africa for suppressing the slave trade, the facilities for carrying on that traffic and avoiding the vigilance of cruisers by the fraudulent use of flags, and other means, are so great, and the temptations for pursuing it, while a market can be found for slaves, so strong, as that the desired result may be long delayed, unless all markets be shut against the purchase of African negroes, the parties to this treaty agree that they will unite in all becoming representations and remonstrances, with any and all Powers within whose dominions such markets are allowed to exist; and that they will urge upon all such Powers the propriety and duty of closing such markets effectually, at once and forever.

Convention between Her Majesty and the King of the French for the suppression of the traffic in slaves.—[EXTRACT.]

ARTICLE I.—In order that the flags of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and of His Majesty the King of the French, may not, contrary to the law of nations and the laws in force in the two countries, be usurped to cover the slave trade, and in order to provide for the more effectual suppression of that traffic, His Majesty the King of the French engages, as soon as may be practicable, to station on the West Coast of Africa, from Cape Verd to 16° 30′ south latitude, a naval force of at least twenty-six cruizers, consisting of sailing and steam-vessels; and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages, as soon as may be practicable, to station on the same part of the West Coast of Africa a naval force of not less than twenty-six cruizers, consisting of sailing vessels and steam-vessels; and on the East Coast of Africa such number of cruizers as Her Majesty shall judge sufficient for the prevention of the trade on that coast: which cruizers shall be employed for the purposes above mentioned, in conformity with the following stipulations.

ARTICLE II.—The said British and French naval forces shall act in concert for the suppression of the slave trade. It will be their duty to watch strictly every part of the West Coast of Africa within the limits described in Article I, where the slave trade is carried on. For this purpose they shall exercise fully and completely all the powers vested in the crowns of Great Britain and France for the suppression of the slave trade, subject only to the modifications hereinafter mentioned as to British and French ships.

ARTICLE III.—The officers of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and of His Majesty the King of the French, having respectively the command of the squadrons of Great Britain and France, to be employed in carrying out this Convention, shall concert together as to the best means of watching strictly the parts of the African coast before described, by selecting and defining the stations, and committing the care thereof to English and French cruizers, jointly or separately, as may be deemed most expedient; provided always, that in case of a station being specially committed to the charge of cruizers of either nation, the cruizers of the other nation may at any time enter the same for the purpose of exercising the rights respectively belonging to them for the suppression of the slave trade.

IX.

Mr. Webster to Lord Ashburton.

DEPARTMENT OF STATE,

Washington, August 8, 1842.

MY LORD: We have had several conversations on the subject of impressment, but I do not understand that your lordship has instructions from your Government to negotiate upon it, nor does the Government of the United States see any utility in opening such negotiation, unless the British Government is prepared to renounce the practice in all future wars.

No cause has produced, to so great an extent, and for so long a period, disturbing and irritating influence on the political relations of the United States and England, as the impressment of seamen by British cruisers from American merchant vessels.

From the commencement of the French revolution to the breaking out of the war between the two countries in 1812, hardly a year elapsed without loud complaint and earnest remonstrance. A deep feeling of opposition to the right claimed, and to the practice exercised under it, and not unfrequently exercised without the least regard to what justice and humanity would have dictated, even if the right itself had been admitted, took possession of the public mind of America; and this feeling, it is well known, co-operated most powerfully with other causes to produce the state of hostilities which ensued.

At different periods, both before and since the war, negotiations have taken place between the two Governments, with the hope of finding some means of quieting these complaints. At some times, the effectual abolition of the practice has been requested and treated of; at other times, its temporary suspension; and, at other times, again, the limitation of its exercise, and some security against its enormous abuses.

A common destiny has attended these efforts; they have all failed. The question stands at this moment where it stood fifty years ago. The nearest approach to a settlement was a convention proposed in 1803, and which had come to the point of signature, when it was broken off in consequence of the British Government insisting that the *narrow seas* should be expressly excepted out of the sphere over which the contemplated stipulations against impressment should extend. The American minister, Mr. King, regarded this exception as quite inadmissible, and chose rather to abandon the negotiation than to acquiesce in the doctrine which it proposed to establish.

England asserts the right of impressing British subjects, in time of war, out of neutral merchant vessels, and of deciding by her visiting officers, who, among the crews of such merchant vessels, are British subjects. She asserts this as a legal exercise of the prerogative of the crown; which prerogative is alleged to be founded on the English law of the perpetual and indissoluble allegiance of the subject, and his obligation, under all circumstances, and for his whole life, to render military service to the crown whenever required.

This statement, made in the words of eminent British jurists, shows, at once, that the English claim is far broader than the basis or platform on which it is raised. The law relied on is English law; the obligations insisted on are obligations existing between the crown of England and its subjects. This law and these obligations, it is admitted, may be such as England may choose they shall be. But then they must be confined to the parties. Impressment of seamen, out of and beyond English territory, and from

on board the ships of other nations, is an interference with the rights of other nations; is further, therefore, than English prerogative can legally extend; and is nothing but an attempt to enforce the peculiar law of England beyond the dominions and jurisdiction of the crown. The claim asserts an extra-territorial authority for the law of British prerogative, and assumes to exercise this extra-territorial authority to the manifest injury and annoyance of the citizens and subjects of other States, on board their own vessels on the high seas.

Every merchant vessel on the seas is rightfully considered as part of the territory of the country to which it belongs. The entry, therefore, into such vessel, being neutral, by a belligerant, is an act of force, and is, *prima facie*, a wrong, a trespass, which can be justified only when done for some purpose, allowed to form a sufficient justification by the law of nations. But a British cruiser enters an American merchant vessel in order to take therefrom supposed British subjects; offering no justification therefor, under the law of nations, but claiming the right under the law of England respecting the King's prerogative. This cannot be defended. English soil, English territory, English jurisdiction, is the appropriate sphere for the operation of English law. The ocean is the sphere of the law of nations; and any merchant vessel on the seas is, by that law, under the protection of the laws of her own nation, and may claim immunity, unless in cases in which that law allows her to be entered or visited.

If this notion of perpetual allegiance, and the consequent power of the prerogative, was the law of the world; if it formed part of the conventional code of nations, and was usually practised like the right of visiting neutral ships, for the purpose of discovering and seizing enemy property, then impressment might be defended as a common right, and there would be no remedy for the evil till the national code should be altered. But this is by no means the case. There is no such principle incorporated into the code of nations. The doctrine stands only as English law—not as national law; and English law can not be of force beyond English dominion. Whatever duties or relations that law creates between the sovereign and his subjects, can be enforced and maintained only within the realm, or proper possessions or territory of the sovereign. There may be quite as just a prerogative right to the property of subjects as to their personal services, in an exigency of the State; but no Government thinks of controlling by its own laws property of its subjects situated abroad; much less does any Government think of entering the territory of another power for the purpose of seizing such property and applying it to its own uses. As laws, the prerogatives of the crown of England have no obligation on persons or property domiciled or situated abroad.

"When, therefore," says an authority not unknown or unregarded on either side of the Atlantic, "we speak of the right of a State to bind its own native subjects every where, we speak only of its own claim and exercise of sovereignty over them, when they return within its own territorial jurisdiction, and not of its right to compel or require obedience to such laws, on the part of other nations, within their own territorial sovereignty. On the contrary, every nation has an exclusive right to regulate persons and things within its own territory, according to its sovereign will and public polity."

The good sense of these principles, their remarkable pertinency to the subject now under consideration, and the extraordinary consequences resulting from the British doctrine, are signally manifested by that which we see taking place every day. England acknowledges herself over-burdened with population of the poorer classes. Every instance of the emigration of persons of those classes is regarded by her as a benefit. England, therefore, encourages emigration; means are notoriously supplied to emigrants to

assist their conveyance, from public funds; and the new world, and most especially these United States, receive the many thousands of her subjects thus ejected from the bosom of their native land by the necessities of their condition. They come away from poverty and distress, in over-crowded cities, to seek employment, comfort, and new homes, in a country of free institutions, possessed by a kindred race, speaking their own language, and having laws and usages in many respects like those to which they have been accustomed; and a country which, upon the whole, is found to possess more attractions for persons of their character and condition than any other on the face of the globe. It is stated that, in the quarter of the year ending with June last, more than twenty-six thousand emigrants left the single port of Liverpool for the United States, being four or five times as many as left the same port within the same period for the British colonies and all other parts of the world. Of these crowds of emigrants, many arrive in our cities in circumstances of great destitution, and the charities of the country, both public and private, are severely taxed to relieve their immediate wants. In time they mingle with the new community in which they find themselves, and seek means of living; some find employment in the cities, others go to the frontiers, to cultivated lands reclaimed from the forest, and a greater or less number of the residue, becoming in time naturalized citizens, enter into the merchant service, under the flag of their adopted country.

Now, my lord, if war should break out between England and a European power, can any thing be more unjust, any thing more irreconcilable to the general sentiments of mankind, than that England should seek out these persons, thus encouraged by her, and compelled by their own condition, to leave their native homes, tear them away from their new employments, their new political relations, and their domestic connexions, and force them to undergo the dangers and hardships of military service, for a country which has thus ceased to be their own country? Certainly, certainly, my lord, there can be but one answer to this question. Is it not far more reasonable that England should either prevent such emigration of her subjects, or that, if she encourage and promote it, she should leave them not to the embroilment of a double and a contradictory allegiance, but to their own voluntary choice, to form such relations, political or social, as they see fit in the country where they are to find their bread, and to the laws and institutions of which they are to look for defence and protection?

A question of such serious importance ought now to be put at rest. If the United States give shelter and protection to those whom the policy of England annually casts upon their shores—if, by the benign influences of their Government and institutions, and by the happy condition of the country, those emigrants become raised from poverty to comfort, finding it easy even to become landholders, and being allowed to partake in the enjoyment of all civil rights—if all this may be done, (and all this is done, under the countenance and encouragement of England herself,) is it not high time, my lord, that, yielding that which had its origin in feudal ideas, as inconsistent with the present state of society, and especially with the intercourse and relations subsisting between the old world and the new, England should at length formally disclaim all right to the services of such persons, and renounce all control over their conduct?

But impressment is subject to objections of a much wider range. If it could be justified in its application to those who are declared to be its only objects, it still remains true that, in its exercise, it touches the political rights of other Governments, and endangers the security of their own native subjects and citizens. The sovereignty of the State is concerned in maintaining its exclusive jurisdiction and possession over its merchant ships on the seas, except so far as the law of nations justifies intrusion upon that possession

for special purposes; and all experience has shown that no member of a crew, wherever born, is safe against impressment when a ship is visited.

The evils and injuries resulting from the actual practice can hardly be overstated, and have ever proved themselves to be such as should lead to its relinquishment, even if it were founded in any defensible principle. The difficulty of discriminating between English subjects and American citizens has always been found to be great, even when an honest purpose of discrimination has existed. But the lieutenant of a man-of-war, having necessity for men, is apt to be a summary judge, and his decisions will be quite as significant of his own wants and his own power as of the truth and justice of the case. An extract from a letter of Mr. King, of the 13th of April, 1797, to the American Secretary of State, shows something of the enormous extent of these wrongful seizures:

"Instead of a few, and these in many instances equivocal cases, I have," says he, "since the month of July past, made application for the discharge, from British men-of-war, of two hundred and seventy-one seamen, who, stating themselves to be Americans, have claimed my interference. Of this number eighty-six have been ordered by the Admiralty to be discharged, thirty-seven more have been detained as British subjects or as American volunteers, or for want of proof that they are Americans, and to my applications for the discharge of the remaining one hundred and forty-eight, I have received no answer—the ships on board of which these seamen were detained having, in many instances, sailed before an examination was made in consequence of my application.

"It is certain that some of those who have applied to me are not American citizens, but the exceptions are in my opinion few, and the evidence, exclusive of certificates, has been such as, in most cases, to satisfy me that the applicants were real Americans, who have been forced into the British service, and who, with singular constancy, have generally persevered in refusing pay or bounty, though in some instances they have been in service more than two years."

But the injuries of impressment are by no means confined to its immediate subjects or the individuals on whom it is practised. Vessels suffer from the weakening of their crews, and voyages are often delayed, and not unfrequently broken up, by subtraction from the number of necessary hands by impressment. And what is still of greater and more general moment, the fear of impressment has been found to create great difficulty in obtaining sailors for the American merchant service in times of European war. Seafaring men, otherwise inclined to enter into that service, are, as experience has shown, deterred by the fear of finding themselves ere long in compulsory military service in British ships of war. Many instances have occurred, fully established in proof, in which raw seamen, natives of the United States, fresh from the fields of agriculture, entering for the first time on shipboard, have been impressed before they made the land, placed on the decks of British men-of-war, and compelled to serve for years before they could obtain their release, or revisit their country or their homes. Such instances become known, and their effect in discouraging young men in engaging in the merchant service of their country can neither be doubted nor wondered at. More than all, my lord, the practice of impressment, whenever it has existed, has produced not conciliation and good feeling, but resentment, exasperation, and animosity, between the two great commercial countries of the world.

In the calm and quiet which succeeded the late war—a condition so favorable for dispassionate consideration—England herself has evidently seen the harshness of impressment, even when exercised on seamen in her own merchant service, and she has adopted measures calculated, if not to renounce the power or to abolish the practice, at least

to supersede its necessity by other means of manning the royal navy, more compatible with justice and the rights of individuals, and far more conformable to the spirit and sentiments of the age.

Under these circumstances, the Government of the United States has used the occasion of your lordship's pacific mission to review this whole subject, and to bring it to your notice and that of your Government. It has reflected on the past, pondered the condition of the present, and endeavored to anticipate, so far as might be in its power, the probable future; and I am now to communicate to your lordship the result of these deliberations.

The American Government, then, is prepared to say that the practice of impressing seamen from American vessels cannot hereafter be allowed to take place. That practice is founded on principles which it does not recognise, and is invariably attended by consequences so unjust, so injurious, and of such formidable magnitude, as cannot be submitted to.

In the early disputes between the two Governments on this so long-contested topic, the distinguished person to whose hands were first intrusted the seals of this Department declared, that "the simplest rule will be, that the vessel, being American, shall be evidence that the seamen on board are such."

Fifty years' experience, the utter failure of many negotiations, and a careful reconsideration now had of the whole subject, at a moment when the passions are laid, and no present interest or emergency exists to bias the judgment, have fully convinced this Government that this is not only the simplest and best, but the only rule which can be adopted and observed, consistently with the rights and honor of the United States, and the security of their citizens. THAT RULE ANNOUNCES, THEREFORE, WHAT WILL HEREAFTER BE THE PRINCIPLE MAINTAINED BY THEIR GOVERNMENT. IN EVERY REGULARLY DOCUMENTED AMERICAN MERCHANT VESSEL THE CREW WHO NAVIGATE IT WILL FIND THEIR PROTECTION IN THE FLAG WHICH IS OVER THEM.

This announcement is not made, my lord, to revive useless recollections of the past, nor to stir the embers from fires which have been, in a great degree, smothered by many years of peace. Far otherwise. Its purpose is to extinguish those fires effectually before new incidents arise to fan them into flame. The communication is in the spirit of peace, and for the sake of peace; and springs from a deep and conscientious conviction, that high interests of both nations require that this so long-contested and controverted subject should now be finally put to rest. I persuade myself, my lord, that you will do justice to this frank and sincere avowal of motives; and that you will communicate your sentiments, in this respect, to your Government.

This letter closes, my lord, on my part, our official correspondence; and I gladly use the occasion to offer to you the assurance of my high and sincere regard.

DANIEL WEBSTER.

Lord ASHBURTON, &c., &c., &c.

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